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Supreme Court, U.S.
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No. 09-969

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In The

Supreme Court of the United States

BRYAN J. BROWN,

Petitioner,

v.

THE INDIANA BOARD OF LAW EXAMINERS,

Respondent.

On Petition For Writ Of Certiorari To The Supreme Court Of Indiana

PETITION FOR WRIT OF CERTIORARI

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February 16, 2010

QUESTION PRESENTED

Did the Indiana Board of Law Examiners act with such an "evil eye" as to religious beliefs and "unequal hand" toward political dissent while processing Petitioner's bar application against a "wholly arbitrary standard" lacking in "fundamental fairness" as to violate the Due Process and Equal Protection Clauses of the Fourteenth Amendment as well as the Free Exercise and Establishment Clauses of the First Amendment?

PARTIES TO THE PROCEEDING

Petitioner

Petitioner is Bryan J. Brown, a citizen of Indiana residing in Fort Wayne who is licensed to practice law by the State of Kansas.

Respondent

Respondent, the Indiana Board of Law Examiners, is an arm of the Supreme Court of Indiana that investigates the character and fitness of applicants to the Bar and makes recommendations to the Indiana Supreme Court on the issue of lawyer admissions. It is based in Indianapolis, Indiana.

CORPORATE DISCLOSURE STATEMENT

Petitioner states that he neither owns nor is owned by any parent companies or wholly owned subsidiaries.

TABLE OF CONTENTS

	Page
OPINIONS BELOW	1
STATEMENT OF JURISDICTION	1
CONSTITUTIONAL PROVISIONS	1
STATUTORY PROVISIONS	2
STATEMENT OF THE CASE	3
I. THE RECORD	3
A. The path from Kansas to Indiana	3
B. A Due Process pledge made	5
C. The Due Process pledge broken	6
1. The pledge broken as to the Elizabeth Horan incident	7
2. The pledge broken as to the Judge Patrick Kelly letter	8
3. The pledge broken as to "five [protest arrests] in one week"	8
4. The pledge broken as to the now-vacated attorneys' fees award	9
D. Petitioner received less process than he was due	11
E. The Examiners' choice of standards grants insight into vagueness	13
F. The practice of pretextual and confiscational psychology	14
1. Petitioner passed psychological testing (round one)	15

TABLE OF CONTENTS – Continued

Page

2. Petitioner evidently noted that which should not be noted 16

3. Petitioner targeted with the suggestion of a possible sub-clinical disorder 16

G. The process of politicizing psychiatry... 17

1. In search of an independent second opinion 18

2. Punishment for seeking an independent second opinion 19

H. The promotion of compulsory, inquisitional psychiatry 19

1. Dr. Elizabeth Bowman was on the record as to the Catholic Faith..... 20

2. Petitioner passed psychological testing (round two) 20

3. The Government's gaze revealed.... 20

4. Selective editing by an anonymous, unequal hand 21

5. A syllogism pregnant with religious concepts 22

6. The State's official adoption of religious intolerance 23

7. The fraud at the heart of the State's case 24

I. The problem of moving from inquisition into prohibition..... 25

TABLE OF CONTENTS – Continued

Page

1. Petitioner refused to quietly assume the position 25

2. Petitioner's ideological nonconformity dealt with harshly 26

J. The path from prohibition to persecution 26

1. The Examiners' indictment of Petitioner's orthodoxy 27

2. The Examiners' Edict of Nontoleration 28

II. THE ARGUMENT 29

A. This Petition raises an important question as to the presumption to be afforded attorneys seeking admission to foreign bars 29

B. Equal Protection analysis raises substantial concerns regarding equal treatment 30

1. Serial drunk driving does not result in a five-year ban 31

2. Sex crimes, even against children, do not result in a five-year ban 32

3. A substantial lack of candor on the part of bar applicants does not result in a five-year ban 33

C. Due Process analysis raises substantial concerns regarding the fairness of procedures employed 34

TABLE OF CONTENTS – Continued

Page

D. Due Process analysis raises substantial concerns regarding the law that was applied 36

E. Free Exercise analysis raises substantial concerns regarding rights of conscience 38

1. The Examiners discriminated against Petitioner due to his "abhorrent" religious perspectives 38

2. The Examiners weighed Petitioner's orthodoxy in their scales 39

3. The Examiners subjected Petitioner to a test oath 40

F. Establishment Clause analysis raises substantial concerns regarding the Examiners' perspective on the wall of separation 41

1. The Examiners have declared a creed 42

2. Petitioner has every reason to believe that the Examiners intend their creed to trump his creed in perpetuity 44

G. This Petition grants the Court opportunity to revisit the crucial question of the politicalization of bar admission 45

CONCLUSION 46

TABLE OF CONTENTS – Continued

Page

APPENDIX

November 16, 2009 Final Order of the Indiana Supreme Court affirming the September 25, 2009 Findings of Fact, Conclusions of Law and Recommendations of the Indiana State Board of Law Examiners ..... App. 1

November 10, 2009 Order of the Indiana Supreme Court refusing to file and removing from record motions to correct evidence bound in error in unsigned form by the State and arguments of bias as to Dr. Elizabeth Bowman raised in the disregarded post hearing motions ..... App. 3

September 25, 2009 Findings of Fact, Conclusions of Law and Recommendation of the Indiana State Board of Law Examiners ..... App. 6

Petitioner's Amended Petition to Review [the] Final Determination of the State Board of Law Examiners (Partial presentation) ..... App. 46

Petitioner's Appendix A to Review [the] Final Determination of the State Board of Law Examiners ..... App. 67

Petitioner's statement at the June 1, 2009 evidentiary hearing answering the question of whether he puts natural law over positive law ..... App. 74

TABLE OF CONTENTS – Continued

Page

Petitioner's request for a presumption of character and fitness based upon his ten years of licensure in Kansas at the June 1, 2009 evidentiary hearing.....App. 87

Petitioner's closing argument at the June 1, 2009 evidentiary hearing.....App. 91

Docket of the Indiana Supreme Court in the case of In Re Bar Applicant 24128 .....App. 94

Petitioner's May 1992 letter to Federal Judge Patrick Kelly while incarcerated for civil contempt as a result of the Elizabeth Horan arrest .....App. 100

February 11, 2009 decision of the Indiana State Board of Law Examiners denying Petitioner's April, 2007 Motion for Admission and setting February 2014 as the earliest the Board will consider Petitioner's reapplication.....App. 113

April 23, 2008 report of government-designated psychologist Dr. Stephen Ross (Partial presentation).....App. 115

Petitioner's letter of June 24, 2008 to the Indiana State Board of Law Examiners addressing concerns raised in the January 25, 2008 initial, non-evidentiary hearing (Partial presentation) .....App. 119

Letter to Plaintiff George Klopfer sent by Petitioner to invite collection effort with proof of delivery on June 6, 2008.....App. 128

TABLE OF CONTENTS – Continued

Page

Recommendation of psychiatrist Dr. Bryan Flueckiger by government-designated psychiatrist Dr. Jay Fawver ..... App. 130

Evaluation of Petitioner against Rule 12 standard by psychiatrist Dr. Bryan Flueckiger .... App. 131

December 24, 2008-authored and January 22, 2009-filed report of government-designated psychiatrist Dr. Elizabeth Bowman (Partial presentation) ..... App. 133

Petitioner's response to report of government-designated psychiatrist Dr. Elizabeth Bowman (Partial presentation) ..... App. 138

Evaluation of Petitioner in light of Rule 12 standards by professional counselor Dr. Tom Sass ..... App. 143

Evaluation of Petitioner in light of Rule 12 standards by spiritual advisor of eighteen years, Auxiliary Bishop James Conley of the Archdiocese of Denver ..... App. 145

Certificate of good standing from Kansas presented to the Indiana State Board of Law Examiners less than one month prior to the sole evidentiary hearing in this matter ..... App. 147

Indiana Rule of Court, Rule for Admission to the Bar and the Discipline of Attorneys, Rule 12, Section 2 ..... App. 148

TABLE OF AUTHORITIES

Page

CASES

Application of Stolar, 401 U.S. 23 (1971) 45

Baird v. Arizona, 401 U.S. 1 (1971) 41

Brown v. Bowman, Harrell, Sudrovech, Ross and Does, Case No. 1:09 CV 346 (N.D.Ind.).....25

City of Mesquite v. Aladdin's Castle, Inc., 455 U.S. 283 (1982).....37, 38

Connell v. Higginbotham, 403 U.S. 207 (1971) 39

Everson v. Board of Education, 330 U.S. 1 (1947).....42

Fort Wayne Women's Health Organization, Ulrich Klopfer, M.D., et al. v. Wendell Brane, Bryan J. Brown, et al., 2009 WL 2424506 (N.D.Ind.2009).....9, 10, 28

In re Buker, 615 N.E.2d 436 (Ind.1993).....33

In re Conn, 715 N.E.2d 379 (Ind.1999).....32, 33

In re Haith, 742 N.E.2d 940 (Ind.2001).....32

In re Jones, 727 N.E.2d 711 (Ind.2000) 31

In re Kern, 551 N.E.2d 454 (Ind.1990).....33

In re Lee, 317 N.E.2d 444 (Ind.1974) 31

In re Lucas, 672 N.E.2d 934 (Ind.1996).....33, 34

In re Martenet, 674 N.E.2d 549 (Ind.1996).....31

In re Summer, 325 U.S. 561 (1945).....40

In re Staggs, 894 N.E.2d 535 (Ind.2008).....32

TABLE OF AUTHORITIES – Continued

Page

Joint Anti-Fascist Refugee Committee v. McGrath, 341 U.S. 150 (1951) 34

Konigsberg v. State Bar of Cal., 353 U.S. 252 (1957) 29, 36

Lee v. Weisman, 505 U.S. 577 (1992) 42

School Dist. of Abington Tp., Pa. v. Schempp, 374 U.S. 203 (1963) 42, 44

Schware v. Board of Law Examiners, 353 U.S. 232 (1957) 30

Sherbert v. Verner, 374 U.S. 398 (1963) 38

Torcaso v. Watkins, 367 U.S. 488 (1961) 40, 41

West Virginia State Board Education v. Barnette, 319 U.S. 624 (1943) 39

Willner v. Committee on Character and Fitness, 373 U.S. 96 (1963) 35

Yick Wo v. Hopkins, 118 U.S. 356 (1886) 30, 31

STATUTES

Indiana Rules of Court, Rules for Admission to the Bar and the Discipline of Attorneys, Rule 12, Section 2 ..... 1, 2, 13, 18, 37

OTHER AUTHORITIES

www.wordreference 37

Freund, The Supreme Court of the United States (1961) 44

TABLE OF AUTHORITIES – Continued

Page

Allan Francis, M.D., *A Warning Sign on the Road to* DSM-V: *Beware of Its Unintended Consequences*, UBM Medica's Psychiatric Times, June 29, 2009 http://www.psychiatrictimes.com/display/article/10168/1425378 46

OPINIONS BELOW

On November 16, 2009, the Indiana Supreme Court issued a one-page ruling (App. 1) affirming the September 25, 2009 Findings of Fact and Conclusions of Law and Recommendation of the Board of Law Examiners (App. 6), which affirmed the one-page ruling of the same body on February 11, 2009 (App. 7) denying Petitioner certification under Rule 12 and stating that Petitioner was not to apply for admission to the Indiana bar again until Spring 2014, seven years after the filing of the application that began the current controversy. App. 12.

STATEMENT OF JURISDICTION

Having been filed within 90 days of the Indiana Supreme Court's ruling of November 16, 2009, this appeal is timely.

Federal claims were raised numerous times below and in the appellate briefing before the Indiana Supreme Court. App. 73.

CONSTITUTIONAL PROVISIONS

Constitution of the United States: Amendment I, Establishment Clause: "Congress shall make no law respecting an establishment of religion . . . "

Amendment I, Free Exercise Clause: "or prohibiting the free exercise thereof . . . "

Amendment XIV, section 1, Due Process Clause: "nor shall any State deprive any person of life, liberty, or property, without due process of law . . . "

Amendment XIV, section 1, Equal Protection Clause: "nor deny to any person within its jurisdiction the equal protection of the laws."

STATUTORY PROVISIONS

Rule 12. Committee on Character and Fitness

Section 1. The State Board of Law Examiners shall inquire into and determine the character, fitness and general qualifications to be admitted to practice law as a member of the bar of the Supreme Court of Indiana. It is a condition precedent to admission, whether upon examination or upon foreign license, that the Board report and certify to the Supreme Court that the applicant, after due inquiry, has been found to possess the necessary good moral character and fitness to perform the obligations and responsibilities of an attorney practicing law in the State of Indiana, and has satisfied all general qualifications for admission.

Section 2. App. 148.

STATEMENT OF THE CASE

I. THE RECORD

A. The path from Kansas to Indiana

Petitioner served as Deputy Attorney General and Chief of the Consumer Protection and Antitrust Division under Attorney General Phill Kline in Kansas from 2003-2007, at which time his government service ended in the wake of a failed re-election bid. Unable to find work in Kansas, Petitioner made plans to return to his home state of Indiana. App. 13, 68-69.

Petitioner graduated from an accredited law school in 1996, and had in the Spring of that year applied to three states for admission: Indiana, Montana and Kansas. The latter two found him possessed of good moral character and mental fitness before the Indiana system had concluded its investigation. Petitioner then notified both Indiana and Montana of his intent to sit for the Kansas bar. Petitioner was sworn into the Kansas bar in September 1996. Ex. 1. App. 67-69.

Petitioner joined the bar of this Honorable Court in 2001, and was approved to join the Missouri bar in 2006 after passing moral character and fitness review by the National Conference of Bar Examiners in 2005. *Id.*

As the Indiana Board of Law Examiners ("Examiners") recognized, Petitioner "practiced law successfully in Mississippi and Kansas for several years"

(App. 12-13) "without significant incident, except for single complaints filed against him in Wisconsin and Kansas, neither of which resulted in discipline." App. 40-41. "His application [as of June 1, 2009] contains a large number [actually more than 70] of supporting letters from individuals who are familiar with the Applicant's character, law practice, or both [including an auxiliary bishop, two former attorney generals, all of Petitioner's supervisors since 1993, many of Petitioner's co-workers in the State of Kansas and at a public interest law firm, judges, elected officials, co-counsel, law school professors, clergy and friends of more than twenty years]." App. 62, 68, 70-71, 143-46.

Petitioner has been denied certification as to good moral character and/or fitness (the record is unclear) by Indiana and sentenced to an effective seven-year ban from the privilege of practicing law in Indiana. App. 49-50, 63.

It is Petitioner's belief that he was denied certification for arbitrary, capricious and unconstitutional reasons that have more to do with his politics and religion than his character and fitness (as those terms are customarily interpreted). App. 46-47.

This allegation invites Equal Protection, Due Process, Free Exercise and Establishment Clause review.

B. A Due Process pledge made

"When the Examiners initially denied the [Petitioner's] application, it adopted no statement of reasons, nor is it required to do so [in the February 11, 2009 order]." App. 8, 49-50. The Examiners set Petitioner's hearing date without notifying Petitioner of any reason for the denial or whether the denial was for a lack of moral character, a lack of fitness, neither or both.

At the June 1, 2009 evidentiary hearing Examiner Charlotte Westerhaus made a point of noting that the February 11, 2009 order contained no discussion of either "moral or mental stability" and thus communicated no actual reason for the denial. Nor did it communicate whether the denial was incident to character or fitness. Tr. 127-129.[1]

Petitioner moved the Examiners for statement of reasons ahead of the evidentiary hearing. The Examiners responded with a "non-exhaustive clarification." That "notice" employed the terminology "include, but are not limited to" in setting forth five areas of potential concern. App. 9, 49.

The Examiners stated in that paramount notice, and at least two other times in the record, that "the Applicant's acts of civil disobedience and contact with the criminal justice system are generally explained and do not, in and of themselves, merit a finding that

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[1] Transcript of June 1, 2009 evidentiary hearing ("TR").

he lacks the requisite good moral character to be admitted to this bar." App. 11.

Petitioner took the Examiners at their word and focused his efforts on preparing to discuss the five areas of alleged interest to the Examiners "but not his acts of civil disobedience or contact with the criminal justice system."

The Examiners failed to reveal most of what they actually inquired into at the one and only evidentiary hearing.

This allegation invites Due Process Clause review.

C. The Due Process pledge broken

Petitioner's politics and religion primarily show themselves in a series of arrests for civil disobedience (and civil litigation arising directly out of those arrests) which are almost two decades past. That said, Petitioner has never renounced his theologically informed pro-life views and has a more than thirty-year, unbroken record of constitutionally-informed human rights advocacy.

"Between approximately 1989 and 1992, and before the Applicant went to law school [1993-1996], he was arrested numerous times while protesting at abortion clinics throughout the country." App. 10.

"None of the arrests resulted in felony or serious misdemeanor prosecutions and he was under no court issued restraint as a result of the arrests." *Id.*

None of these arrests caused Kansas any discernable concern in 1996, despite the fact that many of them – and all of the arrests referenced by the Indiana authorities – took place in Kansas and were at that time less than five years in the past. Likewise, none caused Montana, this Honorable Court, Missouri or the National Board of Law Examiners to question Petitioner regarding those acts, let alone deny Petitioner character and fitness certification.

1. The pledge broken as to the Elizabeth Horan incident

Immediately after restating the above pledge for the third time, the Examiners wrote: "One incident among the arrests was significant in the Examiners' evaluation of the applicant's character." App. 11. That "April 15, 1992 incident" involved the Applicant "in an attempt to intercede on behalf" of an "83-year-old woman" who was "arrested by police during a protest." *Id.*

The Examiners' paraphrase of Petitioner's testimony is inaccurate. Petitioner directed the Examiners to eyewitness testimony. App. 51.

The Examiners brought forth no eyewitness or rebuttal evidence incident to the Horan arrest and conviction.

2. The pledge broken as to the Judge Patrick Kelly letter

The Examiners also noted, in their analysis of this "significant" Horan incident, that Petitioner was held in federal custody for 68 days following his intercession on her behalf. App. 11.

The pre-law school letter Petitioner sent to Federal Judge Patrick Kelly attempting to negotiate his release from civil contempt (per the Judge's invitation) during this "episode" is marshaled as "an example of his respect for the law." App. 11-12.

The Examiners found this letter (which was a direct result of his civil disobedience and presents traditional Christian teaching on the same) "significant" to the question of Petitioner's respect for the law without noting that Petitioner, at the same time, filed a Habeas Corpus petition with the Tenth Circuit Court of Appeals seeking review of the district court's order and that the federal judge receiving the letter eighteen years ago lodged no complaint regarding its content and did ultimately release Petitioner without the demanded loyalty oath. Ex. 1G, Bates 200602. App. 81.

3. The pledge broken as to "five [protest arrests] in one week"

In their "Conclusions of Law" section the Examiners further negate their previous pledge, stating that Petitioner "acted precipitously [in the wake of a great personal loss in 1990 when Petitioner

departed] Indiana [in 1991] to take up abortion protests in Kansas and subjecting himself to arrest five times in one week." App. 42-43.

The Examiners failed to note that Petitioner's alleged "precipitous action" actually ripened into a pro se appeal to the Kansas Supreme Court. That case brought forth a rare state constitution-based free exercise opinion placing the challenged municipal loitering ordinance off limits for such arrests in the future. App. 85-86.

The Examiners brought forth no eyewitness or rebuttal evidence incident to these allegedly "precipitous" city ordinance arrests of eighteen years past that resulted in no convictions.

4. The pledge broken as to the now-vacated attorneys' fees award

The Examiners likewise violated their pledge by faulting Petitioner for doing nothing more than following the law as to an alleged outstanding judgment that was the direct result of his civil disobedience twenty years earlier: "The applicant was mindful of the existence of the judgment and waited for his judgment creditors to pursue him at various stages of his career." App. 30.

The Examiners noted that "the plaintiffs in *WHO v. Brane* never pursued [Petitioner] for the award" and took judicial notice of the fact that "the district court vacated the injunction and all other orders,

including the order requiring the Applicant to pay attorneys' fees and costs" on August 6, 2009. *See Fort Wayne Women's Health Organization, Ulrich Klopfer, M.D., et al. v. Wendell Brane, Bryan J. Brown, et al.*, 2009 WL 2424506 (N.D.Ind.2009) ("*FWWHO*"). App. 30-31.

Despite this vacating of the judgment, and despite the fact that it was a direct result of Petitioner's civil disobedience, the Examiners still held against Petitioner his alleged failure to voluntarily service that judgment. *Id.*

After referencing the court order vacating the order, the Examiners ignored the issuing court's statement that "the record does not indicate that [Petitioner] has ever done anything to violate any order of this court." *FWWHO*, p.6. The federal judge who issued (and subsequently vacated) the order "hastens to note that [Petitioner] has always demonstrated respect for this court and conducted himself in a professional and courteous manner when appearing at any proceeding before this court including the most recent hearing on July 24, 2009." *Id.* at p.7.

The Examiners also failed to note that upon his return to Indiana Petitioner served correspondence upon the plaintiffs inviting them to file a collection action against him. App. 57-58, 128-29.

The inclusion of the Horan, Kelly, "precipitous arrests" and "attorneys' fees" allegations in the Examiners' final report constituted a reneging on the thrice

repeated pledge that "the Applicant's acts of civil disobedience and contact with the criminal justice system are generally explained and do not, in and of themselves, merit a finding that he lacks the requisite good moral character to be admitted to this bar." App. 11.

Such government back-tracking invites Due Process Clause review.

D. Petitioner received less process than he was due

The Examiners closed the evidentiary record on the very day of the hearing. App. 9.

The Examiners not only refused new evidence after the day of the hearing, they also refused to accept rebuttal evidence or post-hearing motions addressing evidence adduced at the sole evidentiary hearing. App. 38-39, 49-51, 53, 56-58, 60.

While nothing from Petitioner's post-hearing motions (filed one week after the hearing) made it into the Examiners' final report, representations from the federal court's order that issued more than two months after the evidentiary record allegedly "closed" were included in the Examiners' report. (But only those findings that tended to aid the Examiners in their attempt to deny Petitioner's admission.) App. 31, 50-51.

Petitioner renewed those post-hearing motions in his appellate filing with the Indiana Supreme Court

to no avail. App. 48. Petitioner also sought to file motions with the Indiana Supreme Court addressing unsigned documents in the record and the biases of the government's expert witness adverse to him. Those motions were ordered stricken from the record and filed in the Office of the Board of Law Examiners rather than on the Court's docket. App. 3-4.

The Examiners' final report also contained the allegation that Petitioner had failed to attend a rare Saturday meeting of the Committee incident to his 1996 bar application more than a decade earlier. This allegation first showed itself in the Examiners' final report. The evidence that could prove – or disprove – this allegation is under the control of the Examiners. Such evidence is found nowhere in the record – by the choice of the Examiners. App. 10, 51.

Likewise, the Examiners' final report presents impressions allegedly arising out of a January 25, 2008 meeting between the Examiners and Petitioner that resulted in no official transcript – by the choice of the Examiners. App. 17, 53-54.

These allegations and others that were first alleged in the Examiners' final report were challenged in post-hearing motions. These motions were unheard – by the choice of the Examiners. App. 48.

Finally these allegations are contained in an unsigned document that denies Petitioner his "privilege" of practicing law – unsigned by the choice of the Examiners. (The original was dated by hand but signed by no one.) App. 45.

These allegations invite Due Process and Equal Protection Clause review.

E. The Examiners' choice of standards grants insight into vagueness

None of the standard adjectives for moral character or fitness are weighed in the Examiners' thirty-page, unsigned, case-law-free "analysis." Petitioner presented all of the Rule 12 standards before the Examiners in his only evidentiary hearing.

The Examiners eschewed the moral character and fitness requirements found in Indiana Rule 12 – and in most "Rule 12's" the nation over – to instead judge Petitioner against the undefined quality of "insight." App. 34, 60.

The Examiners advance many acts that allegedly demonstrated a fatal "lack of insight" on Petitioner's part, including taking two weeks to inform the Examiners of his layoff (App. 32), creating letterhead without the Examiners' permission (that violated neither Kansas law nor Indiana law) in a jurisdiction 600 miles west (App. 33-34), using the term "Orwellian" to describe alleged government overreaching (App. 50, 60), making religious arguments in "purge letter" written more than a year before Petitioner attended law school (App. 12), raising constitutional arguments in letters to his government-appointed inquisitors (App. 7) and having the temerity to opine at the evidentiary hearing that 31

months seemed to be an inordinate amount of time to process his application. App. 36, 58-59, 61, 64.

Due Process and Equal Protection Clause review is thus recommended.

F. The practice of pretextual and confiscational psychology

The Examiners ordered Petitioner into the Judges and Lawyers Assistance Program ("JLAP") at the conclusion of the January 25, 2008 hearing for reasons not fully documented but allegedly manifested in the record before that date. App. 34. Despite this allegation of pre-January 2008 acts, almost all of the evidence marshaled by the Examiners to justify that January 25, 2008 order took place months and even a year after January 2008. App. 60.

Nothing in Petitioner's application or testimony suggests a drug or alcohol problem in the past three decades. At no time did the Examiners or JLAP test Petitioner for drugs or alcohol abuse or allege any such activity. App. 135-37.

While yet in Kansas, Petitioner had used the defaced letterhead of his former office to write a follow-up letter to a local Sheriff on behalf of a blacklisted law enforcement officer asking that said officer be interviewed for possible employment. This act ripened into an allegation of ethical breach by Petitioner's political opponents that was subsequently dismissed on its merits in August 2008. App. 53-55.

After nearly 100 days of nonaction, JLAP social worker Tim Sudrovech ordered Petitioner to report to psychologist Dr. Stephen Ross. App. 54.

1. Petitioner passed psychological testing (round one)

Dr. Ross subjected Petitioner to three separate psychological examinations, one of which was the Minnesota Multiphasic Personality Inventory II ("MMPI 2"). App. 90, 119-20. His seven-page report was presented to the Examiners. Not only did Ross recommend that Petitioner be permitted to sit for the July 2008 bar exam, Ross did not make any finding of mental disorder. Ross rather made a finding that Petitioner possessed "moral integrity." The Ross report recommended that Petitioner be cleared to sit for the July 2008 bar exam. App. 117.

Petitioner then wrote the Examiners seeking permission to sit for the July 2008 bar examination. The Examiners refused to sit Petitioner for the July 2008 exam, instead informing him that he would next have to submit himself to a "psychiatric evaluation." Ex. 29. App. 119-20.

In their final report, the Examiners admitted (in a sentence that seems to betray their animus) that "Dr. Ross concluded that he could not identify a reason to preclude the Applicant from sitting for the July 2008 examination." App. 18.

2. Petitioner evidently noted that which should not be noted

Petitioner had taken notes of the questions he was asked during the MMPI 2 exam. He informed Dr. Ross that questions about politics and religion should be off limits as to bar applicants by order of the United States Supreme Court. Dr. Ross then ordered that Petitioner surrender his notes.

Petitioner repeatedly requested the return of those notes. Requests that JLAP or the Examiners safeguard those notes were ignored and even later counted as evidence of a "lack of insight." Petitioner took advantage of the subpoena power that the Indiana rules granted him and attempted to recover the notes, arguing that he needed them to preserve constitutional arguments. JLAP refused to fully respond to the subpoena and the Examiners refused to enforce their subpoena. App. 48-49.

3. Petitioner targeted with the suggestion of a possible sub-clinical disorder

Without the employment of any of the acceptable and standardized testing for bipolar disorder and without any information about Petitioner's family history, Dr. Stephen Ross raised a hypothesis that Petitioner's affect "suggest[s] to me the *possibility* of a sub-clinical bipolar disorder of a hypomanic type." App. 16. Dr. Ross then wrote: "I am not making these

statements purely based upon the fervor of Mr. Brown's religious beliefs and convictions." *Id.*

This suggestion of a "possibility" of a sub-clinical condition and assurance of merely amalgamated religious consideration in this hypothetical non-diagnosis was followed by the recommendation that Petitioner be remanded to a "board certified psychiatrist." App. 117.

To be fair to this professional psychologist, the Ross report (for which Petitioner was charged almost $2,000) also included a disclaimer that it could contain "errors" and that he was "open to a revised version of this report" and that he "always . . . appreciate[s] having the opportunity to be of assistance to JLAP." App. 118.

These allegations invite Due Process, Free Exercise and Establishment Clause review.

G. The process of politicizing psychiatry

In the wake of Dr. Ross' suggestion of a "possibility" of a sub-clinical condition JLAP demanded that Petitioner turn himself over to their chosen and pre-briefed mental health expert, Dr. Jay Fawver.

1. In search of an independent second opinion

Given concerns about Dr. Ross' focus on his politics and religion, Petitioner sought a review independent of the government's influence.

Dr. Tom Sass was one such independent counselor. His statement of Petitioner's mental health is included in the appendix. Dr. Sass diagnosed Petitioner with no mental health disorder, and found him possessed of both good moral character and mental fitness. App. 143-44.

The government demanded that Petitioner see their expert and no other. Petitioner finally agreed, only to have Dr. Fawver recuse himself after being pre-briefed. Dr. Fawver recommended Dr. Bryan Flueckiger. App. 130.

Petitioner asked JLAP to pre-brief Dr. Flueckiger just as they had Dr. Fawver. JLAP refused, instead yet demanding that Petitioner see only a psychiatrist of their choosing and pre-briefing.

Petitioner spent two hours with Dr. Flueckiger and was found to pass muster under Rule 12. App. 131-32. In their final report, the Examiners rejected Flueckiger as a witness because he was not pre-briefed by the government. App. 21. It appears that JLAP briefs only those from whom they wish to hear, and that the Examiners then listen only to those who JLAP have briefed.

2. Punishment for seeking an independent second opinion

In the Examiners' final report, Petitioner's tendering of the Flueckiger report is cited as evidence of lack of insight (App. 43), as was the filing of standard litigation motions (App. 38), "questioning the integrity of the evaluation process to which he had been subjected" (App. 37), questioning whether the State's expert witnesses could be biased (*id.*) and demonstrating "a lack of understanding of . . . the bar admission process." App. 34. In other words, by working his case for admission to the Indiana bar Petitioner made the case that he lacked the insight to be admitted to the Indiana bar. App. 61-63.

These allegations invite Due Process and Equal Protection Clause review.

H. The promotion of compulsory, inquisitional psychiatry

Petitioner was next given the choice of suffering dismissal of his application or turning himself over to the psychiatrist of the government's choosing and pre-briefing. That psychiatrist was Dr. Elizabeth Bowman. Her appointment to the case by JLAP's Terri Harrell and against a deadline for dismissal of Petitioner's application did not allow Petitioner the time to discover Dr. Bowman's prior, highly prejudicial, public expressions regarding Petitioner's faith and heritage. App. 61.

1. Dr. Elizabeth Bowman was on the record as to the Catholic Faith

Dr. Bowman demonstrated less restraint than Dr. Ross as to probing Petitioner's religious and political opinions. Petitioner did not learn until much later that Bowman was an outspoken activist who had published material highly critical of his chosen faith tradition and traditional views of morality. App. 61, 140.

2. Petitioner passed psychological testing (round two)

Dr. Bowman immediately remanded Petitioner to another psychologist, Dr. William Alexy. Dr. Alexy employed three different tests than had Dr. Ross, reviewed Dr. Ross' testing and concluded: "I certainly can see Bryan functioning adequately as a practicing attorney." Ex. 45.

Dr. Alexy, like Drs. Ross, Flueckiger and Sass, found no reason to preclude Petitioner from sitting for the bar exam. Inexplicably, the Examiners' final report contains no reference whatsoever to the findings and conclusions of Drs. Sass and Alexy.

3. The Government's gaze revealed

Dr. Bowman's report is rife with religious content: "He considers his activities an integral part of his Roman Catholic Christian faith and considers his actions morally right." "[He] firmly believes he is

obligated as a Christian to put obedience to God's laws above human laws." "All of his history of civil disobedience is related to his work against abortion and is a response to his conscience [in which] his passion . . . has overwhelmed his judgment . . . " "Mr. Brown has spent most of his legal career and personal life involved in litigation related to religious rights and in opposing abortion . . . [He] would be likely to use his admission to the bar of any state to continue to work for religious rights . . . " Ex. 47B, p.4.

The Examiners borrowed heavily from the Bowman report, setting forth its middle section almost in its entirety. Their citation of this most inflammatory section began immediately after the section entitled "Conscience." The Examiners' selective entrance into the Bowman report allowed them to bypass this crucial quote: "Mr. Brown has a strong conscience and high moral standards . . . He clearly has moral integrity which has consumed his life and led, at times, to principled civil disobedience. His conscience has been shaped by his Roman Catholic beliefs, to which he came while seeking moral certainty." Ex. 47B, p.6.

4. Selective editing by an anonymous, unequal hand

While inserting the most unfavorable section (entitled "character structure"), the government edited out content that tended to reveal the actual

gravamen of much of Dr. Bowman's ire. The following sentence was redacted by the anonymous author of the Examiners' report: "[Petitioner] showed lack of empathy for women whose pregnancies may be the result of rape or incest, for the [abortion providing] plaintiffs in the federal civil lawsuit against him who were left with their attorneys' fees to pay, for this [psychiatrist] whose profession and presumed religious beliefs he repeatedly devalued. . . ." Ex. 47B, p.7.

5. A syllogism pregnant with religious concepts

Dr. Bowman's religion-focused, abortion-obsessed report culminated in twelve conclusory statements followed by a final paragraph. She joined the previous mental health evaluators in finding Petitioner "not psychotic, not depressed at this time, not having bipolar disorder, and to have moral integrity." App. 135-37. This listing of conclusions was found unworthy of inclusion in the Examiners' report.

The conclusory section of the Bowman report also included the following crucial findings: "[His] past arrests are related to his religious beliefs . . . " "His moral integrity has been expressed in a manner that has led to principled civil disobedience based upon his religious beliefs." *Id.*

The focus is clearly upon "arrested for civil disobedience" despite the Examiners' assurance that such was not of interest. Going further, the causation

for these arrests is reported as "his moral integrity," "his religious beliefs" and "his conscience." *Id.*

"His conscience" Bowman reported, "has been shaped by his Roman Catholic beliefs." Ex. 47B.

Those four "proximate causes" have a synonym in the Bowman report: "I find his personality disorder has caused him to lose perspective on the ethics of his behaviors and to be arrested for civil disobedience [between 1988-1992]." App. 137.

6. The State's official adoption of religious intolerance

The government agent Tim Sudrovech received and passed the Bowman report onto the Examiners, causing it to be filed on January 22, 2009. Sudrovech parroted to the Examiners that Petitioner's "personality disorder has caused him to lose perspective on the ethics of his behaviors and to be arrested for civil disobedience." The State of Indiana thus adopted the syllogism that rendered "religious belief" equal to "personality disorder."

The State of Indiana focused the question of Petitioner's fitness and moral character on his religious beliefs and expressions. These beliefs were not found to merely "suggest" as Dr. Ross concluded, "the *possibility* of a sub-clinical bipolar disorder of a hypomanic type." Nor were these beliefs found to constitute no mental illness at all, as Drs. Alexy, Flueckiger and Sass concluded. Rather, Petitioner's

"moral integrity," "conscience," "religious beliefs," and "Roman Catholic beliefs" added up to the ominous sounding "Personality Disorder, Not Otherwise Specified."[2]

7. The fraud at the heart of the State's case

Dr. Bowman reported that Dr. Alexy had diagnosed Petitioner with a mental disorder. Ex. 47B. Petitioner tendered Dr. Alexy's report directly to the Examiners prior to the June 1, 2009 hearing along with his own report noting this serious and substantial misrepresentation in the Bowman report. Ex. 70.

Petitioner assumed such a fraudulent representation at the heart of the Bowman report would result in its recall. The Examiners rather ignored the Alexy report and excoriated Petitioner for noting Bowman's misrepresentation. App. 29.

On December 8, 2009, Petitioner filed suit in the federal district court against JLAP, Bowman and Ross for this and other alleged acts of fraud incident

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[2] Petitioner considered raising a claim under the Americans With Disabilities Act. Doing so burdens one with the weight of ever explaining that claim. Given that Petitioner sides with Drs. Ross, Alexy, Flueckiger and Sass (as well as his Pastor and the Auxiliary Bishop of Denver) on the question of that which caused him "to be arrested for civil disobedience" Petitioner is sticking with the answer "his Roman Catholic Christian" faith and abandoning any claim under the ADA that the pejorative label "Personality Disorder, NOS" would afford him.

to the use of "nongovernment" inquisitors. *Brown v. Bowman, Harrell, Sudrovech, Ross and Does*, Case No. 1:09 CV 346 (N.D.Ind.).

These allegations invite First and Fourteenth Amendment review.

I. The problem of moving from inquisition into prohibition

The Bowman diagnosis afforded JLAP opportunity to remand Petitioner back to the Examiners duly labeled. It also afforded the Examiners the opportunity to strike out at Petitioner by including the personally embarrassing mid section of her report in the final order.

1. Petitioner refused to quietly assume the position

Petitioner filed a lengthy response to the Bowman report months before the Examiners issued their anonymous report. Ex. 70. Petitioner's review began with the conclusion of the Bowman report. App. 138-40. Petitioner's analysis of the Bowman report earned Petitioner a strident rebuke in the Examiners' final report. App. 26-29.

The Examiners noted that "Dr. Bowman diagnosed [Petitioner] as having a Personality Disorder NOS [Not Otherwise Specified]" and agreed that this

is what "led to his arrests [some eighteen years ago]." App. 21.

2. Petitioner's ideological nonconformity dealt with harshly

Turning to the question of rehabilitation from such a dread mental disease, the Examiners noted their usual and customary "liberal use of conditional admissions, especially for individuals who have substance abuse or mental health issues." That option "is not available in this case" since the Examiners hypothesized that "the Applicant would . . . not seriously participate in mental health treatment . . . " App. 27-29.

This admission of the Examiners as to differential treatment for drug addicts, run-of-the-mill mental patients, those whom the Examiners can hypothesize as willing to "seriously" engage in mental health treatment and, in comparison, a religiously-motivated political dissident such as Petitioner invites Due Process and Equal Protection review, as well as First Amendment review.

J. The path from prohibition to persecution

Given all of the interest in Petitioner's religion before the June 1, 2009 hearing, he determined it best to present Natural Law teachings from the Catechism of the Catholic Church, the writings of Martin Luther King, Jr., quotes from Sir Thomas

More, and his own religiously-informed thoughts on constitutional governance. App. 75-82.

1. The Examiners' indictment of Petitioner's orthodoxy

That moved the Examiners to set their sites on the core of Petitioner's creed:

> He testified at the hearing to his obligation to disobey laws that contradicted his religious beliefs under certain circumstances [including] that he would not pay [a nineteen-year-old, seemingly abandoned attorneys' fees] judgment even if collection efforts were made because he could not [voluntarily] provide financial support to the plaintiffs . . . who were providers of abortion.

App. 42.

Petitioner at no time pledged he would not pay the attorneys' fees, he instead pointed out that he had not been asked to pay the fees since he became an attorney. Petitioner went so far as to write the Plaintiffs and invite a fee collection action, copying the same to the Examiners in Ex. 26. App. 57-58. *See also* extended discussion of this at Tr. 132-156, detailing, *inter alia*, a mid-90's attempt on the part of Petitioner to buy out the judgment through legal counsel: "I had a real conscience [check] against paying the money directly to the abortionists, so we'd have to set up an escrow account, but I would pay

into the escrow account . . . " Tr. 139, Ex. 65G, Ex. 1H. (These statements are found in all of Petitioner's previous submissions to state bars.) Petitioner was opposed to voluntarily tendering money to abortionists, but did not foreclose making payments through a third party. The point was rendered moot by the abortionists' knowing abandonment of their judgment in the face of Petitioner's request that they pursue the same. *FWWHO*, p.7.

2. The Examiners' Edict of Nontoleration

Finally the Examiners established their own creedal statement: "The Hearing Panel believes that a member of the Indiana bar must obey Indiana law and federal law, even when doing so violates an attorney's conscience, and that an avowed willingness not to do so is disqualifying." App. 42-43.

The Examiners' foray into the forging of statist creedal statements and rejection of Petitioner because his creed differs from the Examiners' invites review against the Free Exercise and Establishment Clauses.

II. THE ARGUMENT

A. This Petition raises an important question as to the presumption to be afforded attorneys seeking admission to foreign bars

Petitioner directs this Honorable Court to Appendix A of his brief before the Indiana Supreme Court (App. 67) for an alleged *prima facia* case of good moral character and fitness. Petitioner further asks this Honorable Court to note that he offered to take the oath to support and defend the federal and state constitutions without reservation at the evidentiary hearing in this matter. App. 87.

At that hearing Petitioner asked the Board if he enjoyed any presumption of good character and mental fitness given his Kansas license and years of practice. App. 87-89.

The answer to that question is found in the unsigned and legal-analysis-free recommendation of the Board Law Examiners which fails to reference any such presumption and the one-page order of the Indiana Supreme Court affirming it.

One does not demonstrate a fatal lack of insight by noting that bar admission decisions have been found to be "both arbitrary and discriminatory" in our nation's history. *Konigsberg v. State Bar of Cal.*, 353 U.S. 252 (1957).

According to one of the seminal cases on the licensing of attorneys, "a State cannot exclude a person

from the practice of law or from any other occupation in a manner or for reasons that contravene the Due Process or Equal Protection Clause of the Fourteenth Amendment." *Schware v. Board of Law Examiners*, 353 U.S. 232, 239 (1957).

Petitioner should have been found to have sufficient character and fitness based upon his ten years of licensure in Kansas. Instead he was "processed" in an arbitrary and discriminatory fashion that raises both First and Fourteenth Amendment concerns.

B. Equal Protection analysis raises substantial concerns regarding equal treatment

Case law more than 130 years old should guide the Court given the facts at bar. The *Yick Wo* Court reviewed an otherwise acceptable law that was "***applied by the public authorities*** charged with their administration with a ***mind so unequal and oppressive*** as to amount to ***a practical denial*** by the state of that equal protection of the laws." *Yick Wo v. Hopkins*, 118 U.S. 356, 373-74 (1886) (emphasis added).

The *Yick Wo* Court located (in the use of an otherwise "impartial" law) a fact pattern demonstrating that the law "had been ***applied and administered by public authority with an evil eye and an unequal hand***." This was so glaring as to result in "***unjust and illegal discriminations*** between persons in similar circumstances." Such being the case,

the *Yick Wo* Court remedied a "***denial of equal justice***." *Id.* (emphasis added).

Such unequal processing should not happen before the Indiana Board of Law Examiners, since foreign attorneys petitioning to enter the Indiana bar are guaranteed equal treatment by *In re Lee*, 317 N.E.2d 444 (Ind.1974) ("we cannot accept one standard of integrity of the advantaged and another of the disadvantaged, anymore than we can apply varying standards of professional competence for initial admission to the bar of this state.") *Id.* at 445.

If equal offenses resulting in unequal punishments establish a *prima facia* case of invidious discrimination, then it must be *even more* invidious to find greater punishment (as in a five year suspension) visited upon less serious offenses.

1. Serial drunk driving does not result in a five-year ban

The Examiners cited Applicant's five arrests (not convictions) for civil disobedience more than eighteen years earlier as justification for the denial and ban. The following may reveal the work of an "unequal hand":

In re Martenet, 674 N.E.2d 549 (Ind.1996) (6-month suspension from the practice of law stayed to 12 months of probation for three convictions of OWI);

In re Jones, 727 N.E.2d 711 (Ind.2000) (6-month suspension, stayed to probation on condition that

attorney undergo successful treatment for and monitoring of his alcohol dependency, for four convictions of OWI over 15 years);

In re Haith, 742 N.E.2d 940 (Ind.2001) (12-month suspension stayed to two years of probation involving alcohol dependency after three convictions of OWI, two of which involved personal injury).

2. Sex crimes, even against children, do not result in a five-year ban

The Examiners cited Applicant's more than eighteen-year-old, misdemeanor conviction for delivering necessary health risk information to officers falsely arresting an elderly woman as justification for the denial and ban. The following may reveal the work of an "unequal hand":

In re Staggs, 894 N.E.2d 535 (Ind.2008) (90-day suspension, automatic restatement for bar applicant charged with public indecency, indecent exposure and the violation of three ethical canons.)

In re Conn, 715 N.E.2d 379 (Ind.1999). Attorney convicted and imprisoned for the sexual exploitation of minors. Conn violated two canons of ethics by downloading child pornography while his bar application was pending and failing to tell the Indiana authorities of the federal investigation. *Conn*, 715 N.E.2d 380. In seeking out "an appropriate sanction" for these acts the Indiana court turned to "other

disciplinary proceedings arising from charges relating to illicit child sexual activities." Conn received a two-year suspension from the practice of law. *Conn*, 715 N.E.2d 381.

See also In re Buker, 615 N.E.2d 436 (Ind.1993) (two-year suspension for displaying sexually explicit material to, and molesting, a child);

In re Kern, 551 N.E.2d 454 (Ind.1990) (two-year suspension for child molestation).

3. A substantial lack of candor on the part of bar applicants does not result in a five-year ban

The Examiners cited Petitioner's alleged over elaboration and lack of etiquette as justification for the denial and ban. The following may reveal the work of an "unequal hand":

In re Lucas, 672 N.E.2d 934 (Ind.1996). Mr. Lucas' Indiana application failed to disclose numerous civil lawsuits and arrests in both his Indiana and Florida applications. Despite glaring "omissions [that] frustrated the efforts of admissions authorities in two states [in] accurately gauging his overall character and fitness" that "tarnishe[d] the integrity of the screening process" the Indiana Supreme Court did not label Lucas as one with a "character flaw." *Id.* at 936. The Court rather ordered him "reprimanded and admonished" for misconduct. *Id.* at 937. Lucas was not suspended from the practice of law. The

Court was satisfied that such discipline met their goal of protecting "the public and the profession" assuring that "the practice of law [is] restricted only to those demonstrating ***established character*** and ***competence***." *Id.* at 939 (emphasis added).

Indiana reveals an "evil eye and unequal hand" by banishing Applicant for five years (actually seven) when deceptive bar applicants, serial drunk drivers, exhibitionists, voyeurs, child molesters and child pornographers are seldom subjected to more than two years banishment.

C. Due Process analysis raises substantial concerns regarding the fairness of procedures employed

The concurrence in a case that likewise addressed themes of political correctness and due process is instructive:

> ***Fairness of procedure*** is "due process in the primary sense." It is ingrained in our national traditions and is designed to ***maintain them***. In a variety of situations the Court has enforced this requirement by checking attempts of executives, legislatures, and lower courts to ***disregard*** the deep-rooted ***demands of fair play*** enshrined in the Constitution.

Joint Anti-Fascist Refugee Committee v. McGrath, 341 U.S. 150, 161 (1951) (Frankfurter, J., concurring) (emphasis added).

The most basic requirement as to "fairness in procedure" in bar applicant processing is found in the *Willner* concurrence:

> in all cases in which admission to the bar is to be denied on the basis of character, the applicant, at some stage of the proceedings prior to such denial, must be ***adequately informed*** of the nature of the evidence against him and be accorded an adequate ***opportunity to rebut*** this evidence.

Willner v. Committee on Character and Fitness, 373 U.S. 96, 107 (1963) (Goldberg, J., concurring).

The majority opinion puts more flesh on this skeleton, noting that

> (t)he requirements of fairness are not exhausted in the taking or consideration of evidence, but extend to the concluding parts of the procedure as well as to the beginning and intermediate steps.

Willner, 373 U.S. at 105.

These steps along the path

> often require[] confrontation and cross-examination of those whose word deprives a person of his livelihood. . . . We think the need for confrontation is a necessary conclusion from the requirements of procedural due process in a situation such as this.

Id. at 103.

Petitioner's Due Process claims are myriad and well-documented in the record. The most glaring are the lack of legal analysis incident to his denial, allegations raised for the first time in the Board's final report, the refusal to consider rebuttal evidence, the ignoring of the Alexy and Flueckiger reports and the reliance upon the discriminatory, and even fraudulent, Bowman report. Fundamental fairness has been violated throughout the application process.

D. Due Process analysis raises substantial concerns regarding the law that was applied

The use of vague and undefined terms during the processing of politically incorrect bar applicants is a concern of this Honorable Court:

> The term "good moral character" . . . is unusually ambiguous. It can be ***defined*** in an almost unlimited number of ways for any ***definition*** will necessarily reflect the attitudes, experiences, and prejudices of the definer. [ ] Such a vague qualification, which is easily adapted to fit personal views and predilections, can be a dangerous instrument for ***arbitrary*** and ***discriminatory denial*** of the ***right*** to practice law.

Konigsberg, 353 U.S. at 263 (emphasis added).

Indiana has denied Petitioner the right to practice law based upon analysis that, in effect, reads: "Were there no other grounds on which to deny the Applicant's application, this lack of [undefined

term][3] . . . would be independently sufficient to show that he lacks the requisite good moral character for admission to this bar."

That omitted term is "insight." It is not found in Rule 12. Neither is it defined in the Examiner's final report, under Indiana law or in any relevant case law.

Insight may be a metaphysical term, a psychological term and a feminist term, but what matters most for this analysis is that insight is not a self-defining legal term.

This Court adopted a brief overview of vagueness law in *City of Mesquite v. Aladdin's Castle, Inc.*, 455 U.S. 283, 290, n.12 (1982) (internal cites omitted). That overview includes the warning that "vague laws defeat the intrinsic promise of, and frustrate the essence of, a constitutional regime. We remain 'a government of laws, and not of men,' . . . only so long as our laws remain clear."

What do the Examiners mean by "insight?" One can only guess, and that is fatal to the Examiner's law-free, unsigned final order. As Petitioner oft warned the Examiners (in letters allegedly demonstrating his fatal lack of insight) this petition documents an "arbitrary and discriminatory denial of the right to practice law" that defeats the "intrinsic promise of"

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[3] According to *www.wordreference*, insight is the "grasping of the inner nature of things intuitively." A synonym is "sixth sense."

and frustrates the essence of, "a constitutional regime." *Id.*

E. Free Exercise analysis raises substantial concerns regarding rights of conscience

The Examiners violated the paramount pledge to keep government from considering religious belief in three distinct ways.

1. The Examiners discriminated against Petitioner due to his "abhorrent" religious perspectives

It is beyond cavil that the

> government may neither compel affirmation of a repugnant belief, nor penalize or discriminate against individuals or groups because they hold religious views abhorrent to the authorities.

Sherbert v. Verner, 374 U.S. 398, 402 (1963).

The religiously-obsessed political inquisition to which Applicant was subjected resulted in psychologist Stephen Ross perceiving the need to assure Tim Sudrovech that "I am not making these [negative] statements *purely* based upon the fervor of Mr. Brown's religious beliefs and convictions." (Emphasis added).

There can be no doubt that Dr. Bowman's December 24, 2008-authored remonstrance weighed

Petitioner's religious belief and convictions, just as Sudrovech's January 22, 2009-filed report adopted her conclusion that Petitioner's Roman Catholic Faith constituted mental illness. Using these as predicate, the Examiners "penalize[d] and discriminate[d] against [Petitioner] because [he] hold[s] religious views abhorrent to the authorities."

2. The Examiners weighed Petitioner's orthodoxy in their scales

In *Connell v. Higginbotham*, 403 U.S. 207 (1971), Justice Marshall (joined in his concurrence by Justices Douglas and Brennan) built off of the "pledge of allegiance" case to argue that even nonreligious test oaths demanding that one swear off the violent overthrow of the federal government offended bedrock principles of constitutional law:

> [S]tate action injurious to an individual cannot be justified on account of the ***nature of the individual's beliefs***, whether he "believe(s) in the overthrow" or has any other sort of belief. "If there is any fixed star in our constitutional constellation, it is that no official, high or petty, can prescribe what ***shall be orthodox*** in politics, nationalism, religion, or other matters of opinion."

Connell, 403 U.S. at 209-10, *citing West Virginia State Board of Education v. Barnette*, 319 U.S. 624, 642 (1943) (emphasis added).

The Examiners (as informed by the government social worker Sudrovech through his chosen experts Ross and Bowman) have "prescribed what shall be orthodox in [the] politics [of abortion and] religion" and loyalty to the secular state.

3. The Examiners subjected Petitioner to a test oath

This case closely parallels *In re Summer*, 325 U.S. 561 (1945), where this Honorable Court allowed the State of Illinois to deny licensure due to the government's claim that its mandates of military service trumped religious allegiance to pacifism. Petitioner argues that *Summer* was wrongly decided and should be revisited.

Torcaso v. Watkins, 367 U.S. 488 (1961) supplies the platform for revisiting *Summer* toward the goal of protecting applicants of faith. The *Torcaso* Court ruled that the First Amendment makes it impossible

> for government, state or federal, to restore the historically and constitutionally discredited policy of ***probing religious beliefs*** by test oaths or limiting public offices to persons who have, or perhaps more properly, profess to have, a belief in some particular kind of religious concept.

Torcaso, 367 U.S. at 494 (emphasis added).

Torcaso protects the nonreligious from religious test oaths. Sixteen years earlier the *Summer*

dissenters argued that the religious should be protected from secularist test oaths. This petition argues the same while demonstrating that the religious need to be protected from secularist test oaths.

The laws of our Republic should clearly state that test oaths – or mental health evaluations that effectively function as test oaths – must not be allowed to result in a *status quo* in which public offices are limited only to those who are willing to swear off "a belief in some particular kind of religious concept" as once was the case in the Union of Soviet Socialist Republics. 367 U.S. at 494.[4]

The Examiners violate the Free Exercise Clause when they "bind heavy," irreligious and conscience-denying "burdens . . . grievous to be borne" upon the shoulders of Petitioner and those of his ilk.

F. Establishment Clause analysis raises substantial concerns regarding the Examiners' perspective on the wall of separation

Establishment Clause violations are admittedly rare in the context of attorney admission cases. They

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[4] It is unlawful to deny "solely for the purpose of withholding a right or benefit because of what [an applicant] believes." *Baird v. Arizona*, 401 U.S. 1, 8 (1971). That said, discriminated-against-applicants are without recourse to the law for damages due to the prophylactic of absolute immunity.

were once common in America's schoolrooms, from whence these cases arise:

In *Lee v. Weisman*, 505 U.S. 577, 600, n.2 (1992) this Court reaffirmed as one of six "paradigmatic practices" that the Establishment Clause prohibits "punish[ing] for entertaining or professing religious beliefs or disbeliefs." *Id.* at 600, n.2 *citing Everson v. Board of Education*, 330 U.S. 1, 15 (1947).

In *School Dist. of Abington Tp., Pa. v. Schempp*, 374 U.S. 203, 230 (1963) (Brennan, J., concurring) we find

> In sum, the history which our prior decisions have summoned to aid interpretation of the Establishment Clause permits little doubt that its prohibition was designed comprehensively to prevent those official involvements of religion which would tend to foster or ***discourage religious*** worship or ***belief***.

Id. (emphasis added).

1. The Examiners have declared a creed

The Examiners, after thirty-one months of heavy-handed discouragement, adopted a creed and let it be known that its creed simply must trump Petitioner's creed:

"The Hearing Panel believes that a member of the Indiana bar must obey Indiana law and federal law, even when doing so violates an attorney's

conscience, and that an avowed willingness not to do so is disqualifying." App. 42.

This creedal statement elevating the State as Lord of all came on the heels of a discussion of Petitioner's sincere (and common) religious belief that he has an "obligation to disobey laws that contradicted his religious beliefs under certain circumstances." *Id.*

The State is obviously informing Petitioner that (a) his religion is in conflict with the Royal Will and (b) he better find a new religion if he wants to be admitted to the Indiana bar when he again applies in 2014.

Is the establishment of such a Royal Will an Establishment Clause concern?

The question of "what particular activities the Establishment Clause forbids the States to undertake" was before this Court when Justice Brennan wrote that the

> Clause embodied the Framers' conclusion that government and religion have ***discreet interests*** which are mutually best served when each ***avoids too close a proximity*** to the other. It is not only the nonbeliever who fears the injection of sectarian doctrines and controversies into the civil polity, but in as high degree it is the devout believer who fears the ***secularization of a creed*** which becomes too deeply involved with and dependent upon the government. [] It has

> rightly been said of the history of the Establishment Clause that "our tradition of civil liberty rests not only on the secularism of a Thomas Jefferson but also on the ***fervent sectarianism*** [ ] of a Roger Williams."

Schempp, 374 U.S. at 259-260 *citing* Freund, The Supreme Court of the United States, 84 (1961) (emphasis added).

2. Petitioner has every reason to believe that the Examiners intend their creed to trump his creed in perpetuity

Indiana has thrown down its religious gauntlet: When Petitioner applies for licensure in 2014 he should stand before the Examiners ready to affirm that the State's laws trump his loyalty to Jesus Christ and the Church He founded and also affirm that Petitioner would pay monies directly to the abortion industry if so asked. (As in response to a national health care tax, for example.)

In demanding that Petitioner submits to its absolute power,[5] conscience clauses be damned, the Examiners have brought State and Church in too close a proximity to each other. In decreeing this New Age edict of nontoleration the Examiners have

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[5] Ironically, the Examiners advance this allegedly law-respecting argument to deny Petitioner's right in an unsigned report analyzing the facts of the case against no law whatsoever, thus emulating despotic, rather than democratic, governance.

crossed the Rubicon and declared war upon persons of Faith. The only question at this point is if Petitioner's license has slaked this Hoosier Will to Power, or if this thirst for totalitarianism will result in future sacrifices to the petty and jealous gods of statism.

G. This petition grants the Court opportunity to revisit the crucial question of the politicalization of bar admission

The doctrines of political correctness again find their way to the High Court with this filing. More than fifty years ago it was the communists (and former communists) who faced discrimination when attempting to become licensed attorneys. Justice Black recorded the social forces involved in this dialectical struggle for legal existence in a rare demonstration of the politicization of court decisions. *See Application of Stolar*, 401 U.S. 23 (1971).

It has now been almost sixty-five years since the peaceful Mr. Summer was denied a license for being "too religious" and more than a half century since this Court ruled that Examiners must not process bar applicants in a fashion violative of the Fourteenth Amendment. The instant petition alleges that Indiana has done just that – and done it in a blatantly unconstitutional manner that sends a chilling wind across the very foundation of our legal order. A ruling addressing Indiana's actions adverse to Petitioner could safeguard many future bar applicants –

and other professional licensure seekers – from a threatened secularist hurricane.[6]

CONCLUSION

Petitioner prays that this Honorable Court grants certiorari to address the significant issues raised herein and ensure that future bar applicants are protected from irreligious statist zeal.

Respectfully submitted,

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[6] *See* Allan Francis, M.D., *A Warning Sign on the Road to* DSM-V: *Beware of Its Unintended Consequences*, UBM Medica's Psychiatric Times, June 29, 2009 http://www.psychiatrictimes.com/display/article/10168/1425378. (An architect of the DSM III & IV, joining other highly-respected academics warning of a planned "paradigm shift" in the use of "diagnosis" currently being designed in secretive meetings assembling the DSM V.)

In the

Indiana Supreme Court

In the Matter of Applicant No. 24128	)	Supreme Court Cause No. 94S00-0910-BL-446

ORDER

(Filed Nov. 16, 2009)

This matter involves a Petition for Review filed on October 19, 2009 and amended on October 21, 2009, by an applicant for admission to the State Bar of Indiana ("Applicant") pursuant to Indiana Admission and Discipline Rule 14, section 2. The Indiana State Board of Law Examiners ("BLE") denied Applicant's application for admission by finding that Applicant failed to demonstrate possession of good moral character, as required by Admission and Discipline Rule 12, section 2. Applicant now asks us to review the BLE's determination.

After careful review of the submissions of the parties, it is the Court's determination that the BLE's decision should stand. Accordingly, Applicant's Petition for Review is DENIED.

The Clerk is also directed to send a copy of this order to Applicant 24128; to Linda Loepker, Executive Director of the State Board of Examiners; to any other counsel of record; and to the Supreme Court Administrator.

Done at Indianapolis, Indiana, this 16th day of November, 2009.

/s/ Randall T. Shepard
Randall T. Shepard
Chief Justice of Indiana

All Justices concur.

In the Indiana Supreme Court

In the Matter of Applicant No. 24128	) Supreme Court Cause) No. 94S00-0910-BL-446

ORDER

(Filed Nov. 10, 2009)

Applicant No. 24128 has filed a "Petition to Correct Certain Errors in the Record and File Attachments" (hereinafter "Applicant's Petition"). Applicant's Petition seeks to supplement the record: (1) with copies of Exhibits 87 and 88 that Applicant No. 24128 e-mailed to the hearing Panel prior to the hearing (even though Applicant No. 24128 tendered paper versions of those exhibits at the hearing itself, identical in every respect to the e-mailed versions except that the ones tendered at the hearing bore his signature); and (2) with print-outs of Internet web pages, the URLs for which are cited in Exhibits 87 and 88, which were not tendered to the Panel prior to or during the May 28, 2009 hearing.

The State Board of Law Examiners ("BLE") has filed a response objecting to Applicant's Petition. The BLE contends: (1) that true and accurate copies of the Exhibits 87 and 88 tendered at the hearing and considered by the Panel already appear in the record; and (2) that the print-outs of the Internet web pages were not part of the papers that Applicant No. 24128 presented to the Panel and therefore should not be considered by this Court as it reviews the Panel's decision.

Having considered the parties' arguments, the Court DENIES Applicant's Petition. The record in this matter already spans an entire banker's box, and the versions of Exhibits 87 and 88 that Applicant No. 24128 now tenders are identical in every material respect to those already contained in the record. Further, Applicant No. 24128 provides no evidence that the print-outs he now tenders, which he admits were printed out on October 26, 2009, are identical representations of the articles as they appeared on the web pages as of May 28, 2009 when he tendered Exhibit 88 (which references those web pages and cites their URLs) to the panel. It is well-known that web pages and the articles contained in them can be, and often are, changed and updated. Accordingly, if Applicant No. 24128 believed that print-outs of the Internet web pages cited in Exhibit 88 were relevant to the consideration of this matter, then those pages should have been tendered at the hearing and made a part of the record at that time.

The Clerk is directed to return to Applicant No. 24128 the exhibits and internet print outs attached to this "Petition To Correct Certain Errors in the Record and File Attachments". The Clerk is also directed to send a copy of this order to Applicant No. 24128; to Linda Loepker, Executive Director of the State Board of Law Examiners; to the Supreme Court Administrator; and to all counsel of record.

Done at Indianapolis, Indiana, this 10th day of November, 2009.

/s/ R.T. Shepard
Randall T. Shepard
Chief Justice of Indiana

BEFORE THE
INDIANA BOARD OF LAW EXAMINERS

In the Matter of the Application of)
)
Applicant 24128)

We, the undersigned Vice-President and Acting Secretary of the Indiana State Board of Law Examiners ("Board"), do hereby certify that the attached Findings of Fact, Conclusions of Law and Recommendation were unanimously approved and adopted by the Board after review and consideration on Friday, September 25, 2009.

/s/ Jon B. Laramore
Jon B. Laramore,
Vice-President
Board Meeting Chair

/s/ Barbara L. Brugnaux
Barbara L. Brugnaux,
Acting Secretary

BEFORE THE
INDIANA BOARD OF LAW EXAMINERS

In the Matter of the Application of)
)
Applicant 24128)

FINDINGS OF FACT, CONCLUSIONS OF LAW AND RECOMMENDATION

This matter came on for hearing at the Applicant's request before a Hearing Panel of the Indiana Board of Law Examiners on June 1, 2009 at the Board's offices in Indianapolis. The Hearing Panel included Board President Leslie C. Shively, Member Charlotte F. Westerhaus and Member Jon B. Laramore. The Applicant appeared in person, *pro se*, and the Board was represented by attorney Charles M. Kidd. The Applicant's application for admission to the bar of the Indiana Supreme Court was previously denied in the he failed to carry his burden of demonstrating that he possessed good moral character as required by Admis.Disc.R. 12, §2.

Procedural Facts

1. The Applicant was notified by letter dated February 11, 2009 that his application for admission had been denied due to his failure to carry his burden of demonstrating good moral character under Admission and Discipline Rule 12 and that he could not reapply for admission for five years. (Vol. 1C, Ex. 48).

2. By letter dated March 4, 2009, the Applicant asked for a hearing on the denial of this admission. (Vol. 1C, Ex. 49).

3. . By letter dated March 5, 2009, the Applicant was notified that his request for hearing would be discussed at the Board's April 2009 meeting. (Vol. 1C, Ex. 50).

4. The Applicant was notified by letter dated April 21, 2009 that his hearing would be held on June 1, 2009, beginning at 8:30 a.m. and that he would be required to submit any additional documentary exhibits he wished to present by Monday, May 11, 2009. (Vol. 1C, Ex. 51).

5. To accommodate a request by the Applicant, the Hearing Panel moved the starting time for his hearing from 8:30 a.m. to 9:00 a.m.

6. On May 11, 2009, the Applicant moved for a 48 hour extension of time to supply documentary exhibits, and the Hearing Panel granted his request by extending his time to submit exhibits to 4:00 p.m. on Wednesday, May 13, 2009. (Vol. 1C, Ex. 59B).

7. Also on May 11, 2009, the Applicant moved for a more definitive statement as to why his application was "rejected." (Vol. 1C, Ex. 59C).

8. When the Board denied the Applicant's application, it adopted no statement of reasons, nor is it required to do so. Each Board member who voted to deny was satisfied that the Applicant had failed to meet his burden regarding character and fitness.

Nevertheless, the Hearing Panel, by letter dated May 12, 2009, provided the Applicant with a statement of issues of interest to the Board under Admis.Disc.R. 12 to assist the Applicant in preparing for his June 1, 2009 hearing. (Vol. 1C, Ex. 61). This non-exclusive clarification provided:

> These include, but are not limited to: (1) any unpaid judgments; (2) disciplinary charges in Kansas; (3) the conduct on which the disciplinary charges in Kansas is based; (4) failure to follow the Board's direction regarding psychological examination; and (5) how these and other matters manifest the Applicant's respect for the law.

9. On or about May 13, 2009, the Applicant moved to strike all reports authored by Timothy J. Sudrovech, Clinical Director of the Judges and Lawyers Assistance Program (JLAP) relating to this Applicant's admission to the bar. (Vol. 1C, Ex. 62).

10. The Applicant's Motion to Strike was taken under advisement and considered by the Hearing Panel as a preliminary matter at the beginning of his hearing on June 1, 2009. At that time, the Applicant withdrew the motion (Tr. 12).

11. Hearing was convened, evidence was presented and the record closed on that day. The parties were ordered to submit their proposed findings of fact and conclusions of law to the Board on July 16, 2009. (Tr. 266).

Applicant's 1996 Application

12. On March 11, 1996, the Applicant filed his first application to sit for the Indiana bar examination. That application, including the form itself, extra pages and the Applicant's lengthy personal statement was 89 pages long. Much of the application's attachments were character reference letters and documents explaining several arrests of the Applicant before law school for acts of civil disobedience. (Vol. 2, Ex. 72).

13. Between approximately 1989 and 1992, and before the Applicant went to law school, he was arrested numerous times while protesting at abortion clinics throughout the country. None of the arrests resulted in felony or serious misdemeanor prosecutions against him, and he was under no court issued restraint as a result of the arrests. (Vol. 2, Ex. 72).

14. Because of concerns about his character raised by the application and its supporting documents, the Board attempted to arrange an agreed time for the Applicant to appear in-person before the Board. (Vol. 2, Ex. 76). In May 1996, he advised the Board that he could not be appearing before the Board and would not be available to sit for the July 1996 bar examination. He told the Board that he hoped he could seek approval in time to take the February 1997 examination. (Vol. 2, Ex. 77).

15. The Applicant's application was allowed to pend throughout that year. (Vol. 2, Ex. 78). He was finally instructed to appear before the Board on

January 19, 1997. (Vol. 2, Ex. 79). The Applicant made no response to that letter, and he failed to appear for the February 1997 bar examination. No further contact was had from the Applicant in relation to this application for the Indiana bar. (Vol. 2, Ex. 81).

16. For the purposes of the Board's findings and conclusions, the Applicant's acts of civil disobedience and contact with the criminal justice system are generally explained and do not, in and of themselves, merit a finding that he lacks the requisite good moral character to be admitted to this bar.

17. One incident among the arrests was significant in the Board's evaluation of the applicant's character. He described an April 15, 1992 incident when an 83-year-old woman was arrested by police during a protest. In his version of events, the Applicant pursued the officers and shouted at them about medication and other needs that the older woman might have. The Applicant's conduct in attempting to come to the aid of the older woman was the triggering event that resulted in his own arrest. (See Vol. 1A, Ex. 1E).

18. At the June 1, 2009 hearing, the Applicant described this episode as his attempt to intercede on behalf of woman who "was being wrongfully arrested" leading to his own incarceration in a federal institution for 68 days. (Tr. 87). During his incarceration, the Applicant wrote a six page letter to the federal judge presiding over his case reminding the

judge of his beliefs and encouraging the judge to remember his religious duties in handling the Applicant's case. (Vol. 5, Ex. 84). This episode occurred before the Applicant attended law school, but the Applicant cited this letter as an example of his respect for the law at this hearing on June 1, 2009 (Tr. 221).

Applicant's 2007 Application

General Findings

19. On April 19, 2007, the Board received a second application for admission to the Indiana bar from this Applicant. This application, with supporting documentation was almost 200 pages long. In the time since his 1996 Indiana application, the Applicant had been admitted to the Kansas bar and actively engaged in the practice of law since his admission. (Vol. 1A, Ex. 1A through 1H).

20. In 2005, he applied for admission to the Missouri bar without examination. That application was denied on the basis of Missouri's residency requirement and the Applicant's subsequent appeal of that decision was denied as well. (Vol. 3, Ex. 82).

21. As with his 1996 application, there is extensive documentation about the Applicant's pre-law school arrests. There had been no subsequent contact with the criminal justice system, save traffic infractions, since his prior application. The Applicant's current application shows that he practiced law

successfully in Mississippi and Kansas for several years, and it contains a large number of supporting letters from individuals who are familiar with the Applicant's character, law practice, or both.

22. Several pieces of information were available to the Hearing Panel that were not available to the Board at the time of its January 2009 decision. These include: (1) the result of the disciplinary investigation by Kansas authorities; (2) the decision by the U.S. District Court vacating the order that the Applicant pay attorneys fees and costs in *Ft. Wayne Women's Health Org. v. Brane*, No. 1:90-CV-66 (N.D. Ind.); (3) the full results of Applicant's psychological evaluation; (4) correspondence between the Applicant and JLAP; and (5) correspondence between the Applicant and Judge Nancy E. Boyer, the Applicant's character and fitness evaluator.

Specific Findings

The Sheriff Barta Letter

23. While in Kansas, the Applicant served as a lawyer in the office of the former Attorney General of Kansas, Phill Kline. When the Attorney General Kline failed to win re-election, the Applicant lost his position in the subsequent political transition in January 2007. (Vol. 1A, Ex. 10).

24. Approximately ten months *after* the loss of his position in the office of the Attorney General of Kansas and while his application for admission to the

Indiana bar was pending, the Applicant wrote a letter of recommendation for employment on behalf of one of his former non-lawyer employees from the office of Attorney General of Kansas. He sent the letter to Shawnee County Kansas Sheriff Dick Barta recommending candidate Jared Reed. (Vol. 1A, Ex. 10).

25. Although the Applicant noted in the letter that it was not official business of the Attorney General's office, the letter was written on the official stationery of former Attorney General Phill Kline. The Applicant had no affiliation with the Attorney General's office at the time the letter was written. (Vol. 1A, Ex. 10).

26. The Applicant's letter to Sheriff Barta was the subject of inquiry by both this Board and the Kansas Office of the Disciplinary Administrator. The Applicant was asked to explain his conduct and why he believed that sending correspondence on long obsolete stationery was appropriate. (Vol. 1A, Ex. 7, 8, 9, 10 &11).

27. Judge Boyer, the Applicant's character and fitness evaluator, asked him whether, in drafting the Barta letter, he demonstrated a propensity to crack under pressure and violate the rules governing the profession. (Vol. 1A, Ex. 11).

28. In a December 10, 2007 letter to Judge Boyer, the Applicant wrote, "I cracked under that pressure. I cracked to save one of the men under my command." He further wrote, "I think it is important to note that [I] did not steal the letterhead or misuse

letterhead that was not mine to rightly use at one point in my career. (Vol. 1A, Ex. 11).

29. The Applicant appeared in-person before the Board at its meeting on January 25, 2008. His letter to Sheriff Barta was one of the topics discussed. In the end, the Board concluded that the Applicant did not appreciate the wrongfulness of his use of the letterhead and had no real remorse for his actions.

30. After his appearance before the Board, the Applicant left the impression that he believed that because he was acting for the benefit of another person, his use of the letterhead was somehow converted into a noble act. The Applicant clearly communicated to the Board that he believed that when he was acting on behalf of others, this "white knight" quality should somehow excuse whatever objective wrongful conduct he committed.

31. In correspondence subsequently provided to the Board by the Applicant, it was clear that he did not believe that the letter to Sheriff Barta was significant breach of ethics. The Applicant wrote letters to the Deputy Disciplinary Administrator in Kansas on May 5, 2008 proposing a diversion plan for his acts. In a July 28, 2008 letter to the Disciplinary Administrator of Kansas, the Applicant wrote,

> I believe that some would dub this an ethics complaint that is somewhat trivial in nature. I also believe that it is politically motivated and has suffered from political machinations intended to render its affect upon me much

> more lethal than trivial. Those machinations have already rendered the impact of this complaint far greater than is visited upon most attorneys facing far more serious complaints.

(Vol. 1A, Exh. 21 and Vol. 1B Ex. 30).

32. At his hearing on June 1, 2009, the Applicant discussed the motivation behind his conduct, but did not express true remorse in terms other than the impact on himself,

> **I moved in equity that the complaint against me be dismissed [since]** I have paid a very dear and tragic price for . . . ,my regrettable error in judgment on October 8, 2007. For that reason I ask Kansas to consider waiving any further disciplinary pain, for my arguable one year delay in becoming an Indiana licensed attorney, loss of employment with ArchAngel Institute and complete humiliation when all of this becomes public (as it soon will given my resignation this week) strikes me as punishment complete.

(Transcript, Applicant's Power Point presentation).

33. On July 31, 2008, the Kansas Office of the Disciplinary Administrator ultimately dismissed the complaint charging the Applicant with violating Kansas disciplinary rules in connection with the Barta letter.

34. The Hearing Panel concurs with the Applicant that this episode is an example of cracking under

pressure. The Applicant admitted that at the time he wrote the letter, he was desperate because he had been out of a job and lacked prospects of obtaining legal work in Kansas. His situation led to personal and family stress, and he admitted that he was depressed. Under these circumstances, he made the ill-advised move to use the letterhead, not only skirting the applicable disciplinary rule but also completely undermining his avowed purpose of obtaining a job for "one of the men under [his] command."

The Applicant's Psychological and Psychiatric Evaluations

35. So great were the Board's concerns after his personal appearance that on February 1, 2008, the Applicant was notified by letter that the Board continued to have concerns about his good moral character and fitness to practice law. (Vol. 1A, Ex. 14).

36. The Applicant was also notified that he would not be permitted to sit for the February 2008 bar examination. He was asked to do a number of things to help complete his file and assist the Board in making a final determination as to his character and his fitness to practice law. This request included an instruction that he contact JLAP to arrange for a psychological evaluation. (Vol. 1A, Ex. 14).

37. During the spring of 2008, The Applicant was evaluated by psychologist Stephen Ross, Psy.D. (Vol. 1A, Ex. 24B). The Applicant's delay, the time required for Dr. Ross' to complete his report, and

subsequent review by Timothy J. Sudrovech at JLAP made it impossible to complete the review of the file in time to allow the Applicant to sit for the July 2008 bar examination.

38. The Applicant had not completed the evaluation process requested in February by May 2008 and, on May 28, 2008, was notified by letter that he would not be allowed to sit for the Indiana bar examination until the examination was completed and JLAP could make a recommendation. (Vol. 1A, Ex. 22).

39. He was further told that if he failed to finish all the requirements imposed by JLAP by October 1, 2008, his application would be dismissed. (Vol. 1A, Ex. 22).

40. The Applicant immediately responded on May 29 asking the Board to reconsider its decision and allow him to sit for the July 2008 examination. The Board considered the Applicant's request at its June meeting and denied the Applicant's request. (Vol. 1A, Ex. 23).

41. Shortly thereafter, Dr. Ross's evaluation was sent to the Board. Although Dr. Ross concluded that he could not identify a reason to preclude the Applicant from sitting for the July 2008 examination, his testing and evaluation led him to believe strongly that the Applicant should receive a comprehensive psychiatric evaluation. Dr. Ross believed there was evidence to suggest that the Applicant might have a bipolar personality or other psychopathology that

would benefit from medication and treatment. (Vol. 1A, Ex. 24A & 24B).

42. In addition, the Applicant was told by letter dated June 13, 2008 that he Board was aware of the results of his evaluation by Dr. Ross and the concurrence of Timothy J. Sudrovech at JLAP and that he was required to obtain a psychiatric evaluation. The Applicant was also told he would not be permitted to sit for any bar examination in Indiana until these requirements were met. The letter repeated the prior admonition that his application would be dismissed if these requirements were not completed by October 1, 2008 absent a showing of good cause. (Vol. 1A, Ex. 25).

43. On June 24, 2008, the Applicant wrote a 16-page letter to the Board objecting to further evaluations because he believed the examinations violated his constitutional right to freedom of religion. He alleged that he "Minnesota Multiphasic Personality Inventory 2" test is biased against conservative or, in his words, "orthodox" Christians. He stated he was writing to JLAP under separate cover to object to the process and discuss concerns regarding the safeguarding of his constitutional rights. He refused to be evaluated by a psychiatrist and likened the Board's requirement that he get an evaluation to conditions in communist Russia. (Vol. 1B, Ex. 26).

44. What followed was a continuous stream of written communications in the form of letters and e-mails from the Applicant to the Board, JLAP Executive Director Terry Harrell and JLAP Clinical

Director Timothy J. Sudrovech. The communications contained a steady drumbeat of thinly veiled threats to initiate civil rights litigation against the Board, JLAP and the individuals with whom he was dealing. (Vol. 1B, Ex. 26, 27, 28A, 28B, 31, 32, 33, 35, Vol. 1C, Ex. 37).

45. Examples of the Applicant's statements from just one of his letters are representative of his statements to JLAP throughout the fall of 2008. On October 8, 2008, the Board received a copy of a package of the Applicant's writings to JLAP. He wrote,

> "I have requested an investigation into perceived violations of my constitutional and civil rights to no avail." (*Id.* p.2)
>
> "I believe that the previous visit with the State-mandated psychologist resulted in the violation of my constitutional rights." (*Id.* p.2)
>
> "I cannot go so far as to say that 'the fix is in,' but if the system were 'fixed' is would look much like this." (*Id.* p.2)
>
> "As I have documented, I believe that I may have already suffered loss due to a breach in protocol as to confidentiality." (*Id.* p.2)
>
> "I would venture to guess that any constitutionalist who considered himself politically incorrect would have the same concerns as I do given the way my file has been handled to date. As I point out in my July 30 letter, my case closely parallels the experience of Russian dissidents in the U.S.S.R." (*Id.* p.5)

(Vol. 1C, Ex. 37).

46. During the time period when he was writing repeatedly to resist further examinations by JLAP-recommended clinicians, the Applicant obtained an evaluation from a psychologist of his own choosing, who did not contact JLAP before performing his examination. The letter from this psychologist, Bryan E. Flueckiger, M.D., contains five paragraphs, provides no explanation of how the Applicant was evaluated, and provides only conclusory statements about his conditions, including "Mr. Brown possesses the mental stability required by your guidelines. I found him to have very strong opinions, which he based on extensive evidence gathered from multiple sources. He is passionate about his faith, family and work. He is highly energetic and very focused on his goals, and these characteristics appear to be very consistent." (Exh. 52).

47. The applicant ultimately consented to a psychiatric evaluation conducted by a clinician recommended by JLAP, Dr. Elizabeth Bowman. She met with the Applicant for almost four hours over three dates and received information from a variety of sources, including Dr. Ross, the psychologist that conducted his initial testing and evaluation. Her comprehensive evaluation report (Vol. 1C, Ex. 47B) resulted in a diagnosis of, "Personality disorder NOS with narcissistic, obsessive-compulsive, and some borderline features. This is his primary diagnosis. It has caused him interpersonal difficulties and led to his arrests." (Ex. 47B, p.8). Although lengthy, the Hearing Panel finds that Dr. Bowman's description of the Applicant's

character structure gives voice to the specific concerns that caused the Board to refer the Applicant for psychological assessment in the first place:

> *Character Structure*: [The Applicant's] greatest difficulty is his personality, which is prominently narcissistic and obsessive-compulsive, with borderline personality disorder traits.
>
> *Narcissistic traits*: In this evaluation, [the Applicant] consistently, exhibited a grandiose sense of importance. This began with his first phone message to me in which he announced that he intended the evaluation to only be one session long. He indicated he felt it was unfair for him to have been arrested for clinic protests and he reported engaging in legal maneuvers to avoid the legal consequences of his arrests, which he felt he had not deserved. He referred to himself as bright, and relished having been described as such by Dr. Ross. He indicated he expected that this evaluator and other mental health professional would not understand him or would be critical and disapproving of him. He tacitly asked to be admired by showing off his knowledge of case law and by presented himself as a chivalrous protector of the helpless. He bragged about Archangel Institute and devalued the abortion providers whose clinic site he took over for this institute. He displayed a sense of entitlement: he tried to specify the length of the evaluation; he made remarks about psychological tests about which he obviously

knew nothing; he was sure his opinions were correct and that others should agree with them; he expected society to tolerate his blockade of clinics; he expected Kansas officials to view his ethics breach as he viewed it. He held forth regularly about matters in a self-aggrandizing manner. He was absolutely certain his opinions were correct, even incorrect opinions, such as believing the MMPI was a product of governmental control. He appeared completely unaware of engaging in these behaviors.

[The Applicant] also exhibited arrogant attitudes in insulting and devaluing remarks about Dr. Ross, this evaluator, mental health professions, "liberals," the IBLE, those who evaluated his ethics in Kansas, and anyone who disagrees with his views. He arrogantly corrected this evaluator about details of his history. He was the most devaluing when he appeared to feel the most threatened. He was often arrogant and tried to dominate the evaluation and interactions with this evaluator. He meets four and possibly five DSM-IV criteria for Narcissistic Personality Disorder.

[The Applicant's] *obsessive-compulsive personality traits* were evident in his overly-elaborated, detailed, compulsively pressured, lengthy answers to questions and his seeming inability to give a simple answer to a simple question. His obsessionally detailed thinking resulted in stilted grammar and slowed his production of relevant material.

At times his thinking appeared almost circumstantial, but he had no loose associations or signs of a formal thought disorder or psychosis. Dr. Ross also made note of his pattern of over-elaborated responses.

He repeatedly made remarks that indicated he expected to be criticized or judged negatively. He exhibited the attitude of moral superiority characteristic of narcissistic and obsessive compulsive personalities.

[The Applicant's] thinking showed obsessions with the topic of the fight against abortion, with seeing authorities and government as attacking him, with presenting himself as right, and with viewing mental health assessments as subjective, biased against religion, and negatively inclined toward him. He regularly returned to the topic of abortion and his views of it. He seemed compelled to manage his anxiety with humorous, often sarcastic remarks devaluing authority of all types, especially mental health authority and "the abortion industry." He sees himself as a victim of "the abortion industry," with little perspective on his own contributions to his current unemployment. He showed compulsive attention to detail in his answers, and indicated he was concerned that omitting details would be misunderstood as him withholding information or being uncooperative with the evaluation. I noted his anxiety about this evaluation appeared to be driving his obsessional defenses. He also showed

an obsessive-compulsive attention to detail, correcting me about small matters. His obsessional defenses appeared designed to try to impress me. The psychologists who tested him noted this same dynamic. He seemed compelled to try to impress this evaluator by quoting case law he considered relevant to his situation.

Borderline personality traits: [The Applicant] exhibits extremes of idealization (or himself) and devaluation (of others) in his cognitions and his interpersonal relationships. This splitting of object relations is characteristic of both narcissistic and borderline personality organization. He also has exhibited impulsiveness in his protest work (see above paragraph) by getting arrested five times in one month in response to his divorce. In this evaluation he exhibited modulated stress-related paranoid ideation about governmental harassment or control of him. He has three borderline traits, but falls far short of meeting criteria for borderline personality disorder.

Summary of character structure: [The Applicant's] character difficulties are most prominently narcissistic, with considerable obsessive-compulsive behaviors that appeared activated by the anxiety that accompanied this evaluation. Cognitively, he also has borderline personality features. His obsessional verbal style, his arrogance, and his compulsive need to impress hampered his effectiveness in efficiently finishing this evaluation,

> and clearly hamper him his establishing an amicable working relationship. Talking with him was exhausting. I am convinced that his personality dynamics are the source of the behaviors that led to his arrests and have prolonged his application for the Indiana bar exam. They are personal liabilities for him.

(Vol. 1C, Ex. 47.B, pgs. 6-8).

48. At his hearing on June 1, 2009, the Applicant minimized or rationalized the Dr. Bowman's findings and gave no sign that he took seriously or intended to act on the recommendations in her report. Excerpts of his responses to questions from the Hearing Panel include, "I think what Dr. Bowman's written is true of all of us. I have come to a determination because of my creative side, because I'm very communicative both orally and in writing, that I think maybe I have a susceptibility that others do not have, maybe a heightened susceptibility to that." (Tr. 175). " . . . She finds me to have moral character and to not suffer from any malady that should bar licensure, that's my reading of her report, that's my opinion, I'm not quoting from the report, that is my view from 'a hundred thousand foot' of what her report says. . . ." (Tr. 206). " . . . I felt like the Bowman report sought to present me as a wild-eyed extremist, I really felt that was the gist of it, that what I got away from it with." (Tr. 207) " . . . So I don't like being labeled an extremist but I've got due coming." (Tr. 208).

These comments show the Applicant's failure to understand or appreciate Dr. Bowman's evaluation and recommendations. Ironically, his reaction is entirely consistent with her diagnosis.

49. Timothy J. Sudrovich [sic] of JLAP forwarded Dr. Bowman's report to the Board with a cover letter stating that "JLAP concurs with Dr. Bowman's evaluation and diagnosis." Sudrovich [sic] went on to agree with Dr. Bowman's recommendation that the Applicant would benefit from individual psychotherapy, but stated that "JLAP questions how much [the Applicant] would value the experience of psychotherapy, how *appropriately* engaged in a therapeutic process he would be. Further JLAP does not believe that [the Applicant] is a good candidate for any type of monitoring/supervision for these very same reasons." (Exh. 47A). The Board works frequently with JLAP, often uses JLAP's evaluative resources, and generally accepts JLAP's treatment recommendations. In this case, JLAP recommended no treatment or monitoring because it concluded that the Applicant would not accept or appropriately engage in treatment. In the recollection of Hearing Panel members, which encompasses many dozens of JLAP referrals (most involving substance abuse), such a recommendation by JLAP is very rare. The Hearing Panel members recall no case in which JLAP has found that treatment is appropriate, but also found that the applicant would not engage in treatment, in which the applicant has been approved for character and fitness.

50. Exhibit 70 is the Applicant's eight page statement regarding the report of his psychiatric evaluation by Dr. Elizabeth Bowman. Understandably, the Applicant denies much of the substantive report. Throughout his written communications regarding JLAP, Dr. Ross and Dr. Bowman, the Applicant has used caustic and devaluing language to describe those who have evaluated his behavior. Dr. Bowman's report, "borders on histrionics and for that reason lacks professional credibility." (Ex. 70, p. 4) "It is my belief that Dr. Bowman's many years as an activist herself has blinded her to seeing persons like me in any realms other than those that are stereotypical." (Ex. 70, p. 8). Referring to Dr. Ross in the pejorative as, "the State's chosen expert." (Ex. 37, p. 3) Regarding the order to obtain a psychiatric evaluation, "I find this order more than mildly Orwellian." (Ex. 37, p. 4). These reactions illustrate the Applicant's tendency to demonize those who criticize him or evaluate him negatively. He refuses to recognize that there may be some truth in Dr. Bowman's evaluation and that she may be an objective evaluator. instead, he concludes that she is biased against him for personal and religious reasons.

51. Based on the psychologist's evaluations, the psychiatric evaluation and its own observations, the Hearing Panel finds that the Applicant possesses problematic character traits. The Applicant misinterprets the fact that because Dr. Bowman diagnosed him as having a Personality Disorder NOS [Not Otherwise Specified] that he was given what amounts

to no diagnosis or a clean bill of mental health. That is not the case. The Applicant has character issues he has ignored and that have been unaddressed by him despite having been given notice of these concerns. Instead, the Applicant has attempted to trivialize or devalue the findings of the mental health professionals who have evaluated him (Vol. 1C, Ex. 70) and, in one instance, sought to strike from the record a report from JLAP (Vol. 1C, Ex. 62).

Unpaid Damage Award

52. Before law school and as a direct result of his abortion protest activities, the Applicant was a party defendant in the *Fort Wayne Women's Health Organization* civil rights lawsuit in the United States District Court for the Northern District of Indiana. On February 20, 1991, the defendants in *Brane*, including the Applicant, were enjoined and ordered to pay the plaintiffs' attorneys' fees and expenses of litigation totaling approximately $61,000. All of this was reported in his 1996 application to join the Indiana bar. (Vol. 2, Ex. 72).

53. The Applicant has not paid any of the fee award or expenses in the eighteen years since it was entered by the district court. The Applicant stated his belief that, "Neither can we in good faith pay monies directly to the abortion industry for attorneys fees raise via public interest appeals against the backdrop of what we believe to be an unconstitutional order." (Vol. 1B, Ex. 26, p. 4, Tr. 151-3 Power Point

presentation). He made a conscious choice not to reopen the judgment to argue his theory that later precedent made the attorneys' fees and costs award unenforceable.

54. The Applicant never formally challenged the legality of the award either by appeal or collateral action. (*Passim*).

55. The applicant was mindful of the existence of the judgment and waited for his judgment creditors to pursue him at various stages of his career. (Generally, Tr. 131-156).

56. The Applicant presented no evidence that the damages awarded against him were either satisfied or formally overturned by a court. During his testimony, the Applicant repeatedly noted that the plaintiffs in the *WHO v. Brane* case never pursued him for the award. (Tr. 136-150). In his June 24, 2008 letter to the Board, he explained his thinking thus,

> The substantive legal theory that plaintiffs utilized to gain the injunction and subsequent order that defendants pay attorneys fees was declared unconstitutional in *Bray v. Alexandria Women's Health Clinic*, 506 U.S. 263 (1993). The SCOTUS therein ruled that the Ku Klux Klan Act of 1871 (codified as 42 USC 1985) could not be utilized to enjoin those involved in the blockading of abortion clinics.

As of the date of his hearing, the Applicant never directly addressed the award of damages against him. (Vol. 1B, Exc. 26).

57. Since the hearing, the Applicant moved to vacate the "Permanent Injunction and related Orders" (Vol. 1C, Ex. 55B) in the case. According to the district court order, the Applicant stated in a "lengthy affidavit" that the injunction "has presented an obstacle to his admission to the Indiana bar." No party opposed the motions by Brown and the current owners to vacate the injunction and related orders. The court stated that the Applicant "maintains that the continued existence of the injunction and its ancillary orders (including the order awarding the plaintiffs attorneys' fees and costs) has rendered him 'unable to secure work in any legal setting in Indiana.' To the extent [the Applicant] is correct, this was clearly not an intended result when the court entered the permanent injunction and its subsequent ancillary orders." Opinion and Order at 6 (citation and footnote omitted). The district court vacated the injunction and all other orders, including the order requiring the Applicant to pay attorneys' fees and costs.

Duty to the Board of Law Examiners

58. The Applicant has not fulfilled his duty to keep his April 19, 2007 application updated. (Tr. 242-251).

59. According to his testimony, the Applicant accepted employment with a business called 80/20, Inc. in Columbia City, Indiana in approximately November 2008. (Vol. 1C, Ex. 65A, Tr. 68-9).

60. Approximately thirty days before this hearing, the Applicant's employment was terminated from 80/20, Inc. He did not promptly notify the Board of the involuntary termination of his employment from 80/20, Inc. The Applicant intended to inform the Board on the date of this hearing on June 1, 2009. (Tr. 70).

61. At some point in 2008, the Applicant formed or was employed or involved in some capacity with an entity in Fort Wayne known as the ArchAngel Institute. (Tr. 148).

62. On August 8, 2008, the Applicant wrote a seven page letter to the Board and JLAP stating, *inter alia*,

> I am now without gainful employment, as that the failure to approve me to sit for the Indiana bar has affected my termination as Executive Director of the ArchAngel Institute. I am currently seeking non-legal work in Indiana – as I have been – with little success.

(Vol. 1B, Ex 32).

63. This statement was the first suggestion to the Board that the Applicant was employed or otherwise affiliated with the ArchAngel Institute.

64. On October 8, 2007, the Applicant wrote a letter to Shawnee County Kansas Sheriff Dick Barta on letterhead from the office of former Kansas Attorney General Phill Kline when he was no longer associated with that office. (See, generally, Tr. 156-190, Power Point presentation beginning with the slide "Three Questions"). On October 15, 2007, the Applicant wrote a letter to apologize the [sic] Sheriff Barta for any confusion created by his prior letter. The Applicant headed his stationery as, "The Brentwood Constitutional and Consumer Law Center" with an address of the Applicant's home in Topeka, Kansas. (Vol. 1A, Ex. 7). At the hearing of this matter on June 1, 2009, the Applicant explained that the Brentwood Center was merely his law practice. (Tr. 250). He had no clients, no decided cases and no publications under that name. (Tr. 251-2).

65. The Applicant acknowledged at his hearing that he had signed his application for the bar and acknowledged that this was a continuing application and that he had a duty to immediately update his application in the event circumstances changed. (Tr. 242-3).

66. In response to a question from a member of the Hearing Panel, the Applicant acknowledged that he last employer known to the Board was former Kansas Attorney General Phill Kline as reported on his bar application in April 2007. (Vol 1A, Ex. 1B). The Applicant had not updated the employment portion of his application since April 2007. (Tr. 261-2).

67. The applicant failed to advise the Board of the nature of his affiliation with The Brentwood Constitutional and Consumer Law Center in Topeka, Kansas, The ArchAngel Institute and 80/20, Inc. (Tr. 249). While this omission may seem trivial, it reflects on the Applicant's fitness. The instruction to keep the application updated – which appears in a portion of the application every applicant must acknowledge by signing – is a simple command. The Applicant's failure to follow it reflects either an inability to understand, a failure to take the application process seriously, or pure carelessness – any of which reflects on fitness to practice law and may reflect disrespect for the court with licensing authority.

The Applicant's Lack of Insight

68. Throughout this application's lifespan, the Board's attention has been continuously drawn to the Applicant's profound and chronic lack of insight into how his actions have negative effects on other people and negative reverberations on himself. More than simply isolated annoyances, incidents involving this lack of insight were so pervasive to induce the Board to require evaluations as directed by JLAP. His conduct during and after his evaluations merely confirmed this view.

69. The Applicant's lack of insight manifested itself in a number of ways during the pendency of his application. In support of this finding, the Hearing

Panel includes some examples, but not all of the instances, of this lack of insight:

a. The Applicant's letter to Sheriff Barta using long-outdated stationery described earlier in these findings is included in Exhibits 10 and 26. During his hearing, the Applicant acknowledged that it was a "terrible decision." (Tr. 173). In other testimony however, he insisted that his letter was written in a way that disclosed to Sheriff Barta that he was no longer employed by the Attorney General's office. Irrespective of the affirmative notification of his employment status, he insisted that Sheriff Barta must have known independently of his status and therefore could not have been deceived or fooled. (Tr. 167-173). This no-harm-no-foul view suggested to the Hearing Panel that the Applicant did not have genuine remorse for his actions.

b. During his hearing, the Applicant had the following exchange with a member of the Hearing Panel about a slide in his Power Point presentation.

> Ms. Westerhaus: In that paragraph you do not say or I don't see the word "JLAP," I see the word in capital letters "Board," so I'm going to ask you again do you believe that because of your political activism, your defining yourself as a dissident, or as you term in your letter your politically-incorrect views, which I don't think I've seen in any correspondence we've had with you in describing you that way, have you in fact been treated – or have you been, excuse me,

> have you been treated fairly by this board, because you seem to have concerns in this paragraph about your treatment by this board, not JLAP, this board?
>
> Applicant: I believe that my file has taken an inordinate long time to process.
>
> Ms. Westerhaus: That's not my question, please answer my question.
>
> Applicant: Well, I don't believe that's fair that my file would take this long to process.
>
> Ms. Westerhaus: So you don't believe this board has treated you fairly in that we have not processed your application in a timely manner?
>
> Applicant: I believe that my application has taken a long time and it is an unfairness upon me, yes.
>
> Ms. Westerhaus: You described your application as being voluminous?
>
> Applicant: Yes.

(Tr. 193-4). The Applicant's current bar application by itself is approximately two hundred pages (Vol. 1A, Ex. 1A-H).

c. On cross examination, the Applicant acknowledged that although his application was filed in April 2007, his letter to Sheriff Barta was not sent until October of that year and the subsequent ethics inquiries in Kansas and by the Board lasted into the late summer of 2008 (Vol. 1B, Ex. 32) or

approximately 16 months after submitting his application.

> Question: So to some extent the delay in processing your application is a creature of your own making, isn't it?
>
> Applicant: That is true.
>
> (Tr. 250).

d. After Dr. Ross's report of the Applicant's psychological evaluation (Vol. 1A, Ex. 24B) was issued on April 23, 2008, the Applicant's extensive letters and e-mails became antagonistic to and about the personnel at JLAP and the professionals who evaluated him. (See, Ex. 26, 27, 28A, 28B, 31, 32, 33, 35, 37, 42 and 44). The Applicant's continuous and implied threats to sue those associated with the review of his application were significant to the Board's evaluation of his character.

e. After Dr. Bowman's report of the Applicant's psychiatric evaluation (Vol. 1C, Ex. 47B) was transmitted to the Board on January 21, 2009 (Vol. 1C, Ex. 47A), the Applicant's focus on JLAP was renewed. On May 4, 2009, the Applicant issued 50 interrogatory-like questions by e-mail to Terry Harrell, the Executive Director of JLAP, questioning the integrity of the evaluation process to which he had been subjected. (Vol. 1C Ex. 56). Thereafter, on May 13, 2009, the Applicant submitted a Motion to Strike All Reports in File Authored by Timothy J. Sudrovech. (Vol. 1C, Ex. 62). At his hearing on June

1, 2009, the Applicant withdrew the motion. (Tr. 12-13).

f. By letter dated April 21, 2009, the Applicant was notified that his hearing would be held on June 1, 2009 and imposed a deadline of 4:00 p.m. on Monday, May 11, 2009 for this submission of exhibits to permit adequate time for duplication and binding. (Vol. 1C, Ex. 51). On Monday, May 11, 2009, the Applicant presented the Board with a Motion for a 48 hour extension of time to submit documents. (Vol. 1C, Ex. 59B). The Hearing Panel authorized an extension of time until 4:00 p.m. on Wednesday, May 13, 2009. Moreover, at the close of the hearing the Hearing Panel made it crystal clear that there were to be no more submissions except for draft findings and conclusions. Despite the explicit cutoff date of his submissions, the Applicant continued to tender documentary exhibits for inclusion in the record up to and at his hearing (Tr. 9-13) and even weeks *after* the record of his hearing was closed. (Vol. 7B, Ex. B7-2-G). *After* his hearing, the Applicant filed numerous motions seeking, *inter alia*, to exclude from the record the psychological report of Dr. Ross (Vol. 7B, Ex B7-2-K), exclude the psychiatric report of Dr. Bowman (Vol. 7B, Ex. B7-2-J), seeking an independent investigation of alleged civil rights violations (Vol. 7B, Ex. B7-2-I), and seeking an order adding his perceived evidence of a "Constitional [sic] Violation" be added to the record of his hearing (Vol. 7B, Ex. B7-2-H). None of the objections enunciated in his lengthy motions

were made during the course of his hearing on June 1, 2009.

Despite a full day spent at the hearing on June 1, 2009, a week later, the Applicant filed a series of post-hearing motions found in volume 7B of the record. These include a motion for reconsideration of the Board's February denial of his application (Ex. B7-2-C), *another* motion for clarification of the rationale for the Board's denial in February 2009 (Ex. B7-2-D), a motion for a written order on the procedure for processing his file (Ex. B7-2-E) and a motion to "clarify" questions and issues that arose during the June 1 hearing (Ex. B7-2-G). The total package of these motions filed after the record was closed is voluminous and constitutes volumes 7A and 7B of the record or approximately 200 pages. The Applicant even argued with a member of the Hearing Panel whether the Board's deadline for submitted documents in preparation for this hearing was mandatory. (Tr. 217-218). This conduct reflects either lack of understanding of or lack of respect for the bar admission process.

g. On May 1, 2009, the Applicant sent a letter to Judge Nancy Eschoff Boyer, a member of the Board's Committee on Character and Fitness, questioning whether she should have served as his character and fitness evaluator in 2007 since her husband had been one of the opposing lawyers in the *Brane* litigation 18 years before. (Ex. B7-20B). In essence, the letter asked whether Judge Boyer believed she could be unbiased in her character and

fitness review of the Applicant. (Tr. 80). Judge Boyer replied to the Applicant's letter with a rebuke that his letter improperly questioned her objectivity in interviewing him. The Applicant responded by letter dated May 7, 2009, (Vol. 1C, Ex. 67). He regretted that he had caused any hard feelings with the judge. The Applicant did not know that Judge Boyer had given him a relatively favorable report in 2007 (Vol. 1A, Ex. 12) at the time he wrote to her in May 2009. As with Dr. Bowman, the Applicant was quick to demonize someone whom he believed (incorrectly, as to Judge Boyer) had given him a negative evaluation, immediately questioning her objectivity.

70. The Applicant's conduct in pursuing admission to the Indiana bar demonstrates that he would engage in the same kind of conduct toward all who disagree with him, including not only litigants and opposing counsel, but judges and other judicial officers. The Applicant is oblivious to the negative effect his conduct has on others whom he believes are adverse to him. Were there no other grounds on which to deny the Applicant's application, this lack of insight into his own conduct would be independently sufficient to show that he lacks the requisite good moral character for admission to this bar.

CONCLUSIONS OF LAW

The panel acknowledges that the Applicant previously practiced law for several years in Mississippi and Kansas (although he was only licensed in

Kansas) without significant incident, except for single complaints filed against him in Wisconsin and Kansas, neither of which resulted in discipline. His application was supported by literally dozens of letters testifying to his legal abilities and good character.

Nevertheless, this Hearing Panel concludes that the Applicant has failed to prove that he has the requisite character and fitness to practice law in Indiana and finds his primary shortcomings to be in the area of fitness. Although the Kansas disciplinary matter was resolved after the Applicant's last appearance before the full Board, the evidence in the record, including substantial additional evidence that the full Board did not have, and the Applicant's disposition before the Hearing Panel provided overwhelming evidence of his lack of character and fitness to practice law in Indiana.

First, while civil conduct is not a prerequisite to eligibility for the bar, the Applicant's conduct throughout his interactions with the Board fell far below standards of civility. His attitude throughout the process, including at the hearing, was cavalier and condescending toward the Board. His attitude toward others involved in the process, including mental health professionals and his Character and Fitness Committee interviewer, was often dismissive. He picked a fight early with JLAP, a coordinate agency of the Judicial Branch that the Applicant never bothered to understand (he often referred to JLAP as if its employees worked for the Board of Law

Examiners), and his attitude toward its dedicated professional employees and cooperating clinicians was often rude and curt. While these behaviors are not disqualifying, they are notable.

The Applicant now has obtained an order vacating the federal district court judgment requiring him to pay $61,000. He no longer is under that legal obligation. But he made clear to the Hearing Panel that he would not pay that judgment even if collection efforts were made because he could not provide financial support to the plaintiffs in that lawsuit, who were providers of abortions. He testified at the hearing to his obligation to disobey laws that contradicted his religious beliefs under certain circumstances. While he spent several years using the federal courts to vindicate his clients' rights, at the same time he flouted a judgment against himself and indicated that he would not obey certain court orders and judgments he believed to be unjust. The Hearing Panel believes that a member of the Indiana bar must obey Indiana law and federal law, even when doing so violates an attorney's conscience, and that an avowed willingness not to do so is disqualifying.

The Barta letter shows that the Applicant is subject to taking precipitous actions when under pressure. When he wrote the letter, he was out of a job, had no prospects for legal employment, and was under personal and family stress. He admitted that he had a "certifiable stress disorder" at that time. (Exh. 10, p. 7). He also acted precipitously when his first marriage dissolved and his wife ran off with his

best friend, leaving Indiana to take up abortion protests in Kansas and subjecting himself to arrest five times in one week. Cracking under pressure reflects on the Applicant's fitness, and his attitude toward mental health treatment gives the Hearing Panel no comfort that he would seek assistance in such circumstances.

The Applicant's refusal to cooperate with the JLAP evaluation process and efforts to manipulate that process by selecting his own psychiatrist, trying to dictate the terms of his evaluation by Dr. Bowman, and constantly demeaning and criticizing JLAP employees and others involved in the process bears upon the Applicant's fitness.

The Applicant's reactions to Dr. Bowman's evaluation and to what he believed (erroneously) to be Judge Boyer's negative evaluation was not to approach the content of the evaluations rationally, but to immediately conclude that the evaluator was biased. In Dr. Bowman's case, he argued that her personal religious beliefs made her incapable of evaluating him objectively and her use of a particular personality test was biased against those of the Applicant's religious beliefs. In Judge Boyer's case, he asserted that her husband's prior involvement in litigation that the Applicant also was involved in made her biased. This type of reaction reflects on the Applicant's fitness.

The Applicant follows his own rules. He disregarded his duty to keep his application updated. He

repeatedly missed or directly disobeyed deadlines set by the Hearing Panel, including by submitting hundreds of pages of exhibits and other documents after the Hearing Panel clearly stated that the record was closed. He tried in several ways to avoid or manipulate the JLAP evaluation process. He minimized his violation of Kansas disciplinary rules regarding the Barta letter (although, when asked directly, he admitted at the hearing that he violated those rules). He stated that he would not obey the judgment of the U.S. District Court for the Northern District of Indiana and indicated that in other situations he might choose not to obey laws he believed to be unjust. While marching to one's own drummer may be appropriate in some walks of life, it is seldom a path that assists an attorney's clients in obtaining the results they want.

Based on extensive testing and interviewing by mental health professionals, the Applicant was determined to have a personality disorder with narcissistic and obsessive traits that are unacknowledged and unmanaged by the Applicant. Unaddressed, these issues create doubt as to his overall fitness to be a member of the bar. The Board of Law Examiners makes liberal use of conditional admissions, especially for individuals who have substance abuse or mental health issues. That option is not available in this case because of JLAP's view – which has the Hearing Panel's full concurrence – that the Applicant would either not participate or not seriously participate in mental health treatment, as shown by his

contemptuous and hostile attitude toward the professionals who found any flaw in his makeup.

RECOMMENDATION

The Hearing Panel, having reviewed the Applicant's entire file, the evidence and argument presented at his hearing and observed the Applicant hereby recommends that the Board affirm its denial of the Applicant's application as previously rendered in this matter.

Respectfully Submitted,

Charlotte F. Westerhaus
Hearing Panel Member

Jon B. Laramore
Hearing Panel Member

Leslie C. Shively
Hearing Panel Chair

Dated: 9/25/09

Distribution to:

Charles M. Kidd
Applicant

IN THE SUPREME COURT
OF THE STATE OF INDIANA

IN RE BAR APPLICANT NO. 24128	SUPREME COURT NO. 94500-0910-BL-446

AMENDED PETITION TO REVIEW FINAL DETERMINATION OF THE STATE BOARD OF LAW EXAMINERS

(Filed Oct. 21, 2009)

Comes now Petitioner Bryan J. Brown (hereinafter also "Applicant"), representing himself, and hereby petitions this Honorable Court to review the February 11, 2009 and September 25, 2009 denials of Rule 12 certification by the Indiana Supreme Court State Board of Law Examiners. The Petitioner further requests that the aims of equity and law be satisfied by an order, issued prior to December, 2009, that he be entered onto the Indiana roll of attorneys without examination.

PETITIONER'S *PRIMA FACIA* CASE (PROCEDURAL HISTORY)

"Our primary responsibility in admission and discipline matters is to protect the public against incompetent and unscrupulous professionals." *In re Lee*, 262 Ind. 439, 441, 317 N.E.2d 444, 445 (1974)

There is no evidence at bar that Petitioner is either incompetent or unscrupulous. The Board has

allowed the application process to be turned into a hunt for those "lacking insight" and/or failing to maintain a sufficiently compliant attitude in the face of ongoing constitutional and due process errors. This is not the law governing the instant application. Petitioners submits his own brief argument as to a prima facie case for good moral character and mental fitness – that is, the absence of evidence of a lack of scruples and the absence of evidence of incompetence – in the Appendix attached hereto. Petitioner advises the Court that the processing of this file could be quick and certain if the Board was merely directed to respond to that Appendix.

STATEMENT OF JURISDICTION AND RECORD

1. This Petition is filed pursuant to Rule 14, Section 2 of the Indiana Rules for Admission to the Board and the Discipline of Attorneys.
2. On February 11 and September 25, 2009 the Indiana Supreme Court State Board of Law Examiners denied the Petitioner's request to be sworn in as a member of the bar of this Court and that the original of those rulings are located in Petitioner's file with this Honorable Court.
3. The Court is asked to take notice of the entire record in this matter pursuant to *Petitioner of Webster*, 241 Ind. 235, 236 (1961) (taking "judicial notice of the records of the State Board of Law Examiners, which is an arm of this court.")

4. The Court is further asked to request that the entirely [sic] of the same, including those files secreted in the offices of the Judges and Lawyers Assistance Program and denied Applicant pursuant to a subpoena signed by the Executive Director of the Board of Law Examiners. See Ex 58 and post hearing motion #7 (Ex B7-2-H)

5. That the Court is further asked to request the entirety of the same, including items not currently open to the Petitioner, which include, but are not necessarily limited to, (1) transcript and minutes from the alleged January 18, 1997 meeting (2) minutes and transcript from January 25, 2008 hearing; (3) investigatory reports, notes, ex parte statements or other matters that may be found in Board files that, like JLAP files, have been withheld from Petitioner.

6. Petitioner asks the Board to rule upon the following post-hearing motions that were submitted to the Board within ten days of the hearing but not ruled upon by the Board: Motion #2, Motion #4, Motion #6, Motion #7, Motion #8, Motion #9, Motion #10.

7. Petitioner further asks the Court to take judicial notice of the following from *Fort Wayne Women'* [sic] *Health Organization et al v. Wendell Brane, et al*, Cause No. 1:90CV66: Transcript of June 24, 2009 hearing before the Honorable William C. Lee (attached as Appendix B), August 6, 2009 final order of the federal court (attached as Appendix C) and affidavit of Applicant supporting his June filing. (Available through PACER).

8. Petitioner requests oral argument.

ASSIGNMENT OF FACTUAL ERRORS

Due to the many errors in the government's report and the fact that it is quite repetitious Petitioner was unable to explain all objections to his satisfaction due to the word count limitation. That said, the most important objections are raised and explained herein.

Petitioner's Response to Board's unsigned Final Order by paragraph.

1. **Error alleged and countered:** The February 11, 2009 letter did not specify any reason or category for the denial. It merely stated that "After careful and deliberate consideration the Board determined that you had not met your burden as specified in Admission and Discipline Rule 12." Ex 48. While the letter stated that the Board had met to consider Applicant's "character and fitness" the letter did not reveal which of those prongs, if not both, the Applicant had failed to carry. The letter further notified the Applicant that "February 2014 is the earliest that the Board will consider an application from you." *See* ERROR OF LAW § A (Procedural Due Process) & ERROR OF LAW § D (Equal Protection and Unequal treatment)

2. Admit.

3. Admit.

4. **Admit with clarification.** Applicant was afforded only ten business days prior to this deadline. Record deadline arrived without explanation of whether he had been denied due

to fitness, good moral character, some other reason (such as lack of "insight") or both of the statutory reasons. Ex 48. *See* ERROR OF LAW § A

5. Admit.

6. Admit.

7. Admit.

8. **Error alleged and countered:** Applicant was informed, for the first time in the Board's September 25, 2009 unsigned Finding of Fact, Conclusions of Law and Recommendation, that "[e]ach Board member who voted to deny was satisfied that the Applicant had failed to meet his burden regarding character ***and*** fitness." (Emphasis added) Applicant did not know, prior to this revelation, whether he had failed to meet the character prong, or the fitness prong, or both prongs due to the paucity of information communicated in Exhibit 48. *See* ERROR OF LAW § A and ERROR OF LAW § C (Equal Protection and Due Process as to Substance)

9. Admit

10. Admit

11. **Error alleged and countered:** Applicant was offered no rebuttal filings as to matters upon which he had been cross examined. The Panel did not clarify whether post hearing motions would be entertained. The Panel then used material from the post hearing motions to argue against Applicant's admission, raising some issues for the first time in its September 25 unsigned "final

order" and even used documents issued by the federal court on August 6, 2009, some 66 days after the record allegedly closed and some 55 days after receipt of Applicant's post hearing motions (that were not ruled upon). *See* ERROR OF LAW § A

12. Admit

13. Admit

14. **Error alleged and countered:** The Board offered Applicant no notice that such issues from 1996 were a concern. Applicant attempted to confront this allegation in a Post Hearing motion and was denied. Ex B7-2-G. . *See* ERROR OF LAW § A

15. **Error alleged and countered:** Applicant was given no notice that this was a concern of the Board until a brief reference was made at the June 1, 2009 hearing. Applicant alleges a due process error. See Post Hearing Motion 6(C) Ex B7-2-G, which was Applicant's first attempt to respond to this allegation which was first leveled in the Board's final order and at no time prior to that. *See* ERROR OF LAW § A

16. Admit

17. **Error alleged and countered:** See eye-witness accounts of this event at Book 3, Exhibit 82, Bates Stamp 200508, 200520, 200522 and, of course, Applicant's own testimony at Ex 1E, Bates stamp 200560. Given the statements in paras. 13 and 16, para. 17 can only mean that this event should be counted as evidence of Applicant's good moral character and not

evidence against the same. In as much as this event is used to bolter [sic] the discriminatory statements of paras. 74 & 78, *infra*, see ERROR OF LAW § B (Equal Protection and Religious Freedom and Conscience).

18. **Admit.**

19. **Error alleged and countered:** Board immediately swelled this application by a factor of three by ordering all available records form the Indiana bar (1996) archives (Exhibit Book 2, Ex. 72-81), the Kansas bar (1996) archives (Exhibit Book 4, Ex 83) and the Missouri bar (2006) archives (Exhibit Book 3, Ex 82).

    These three archival records are 3.75 inches thick. By way of comparison, Applicant's 2007 application is merely one inch thick. See ERROR OF LAW § C

20. **Error alleged and countered:** Applicant was found to have had good moral character and fitness by both the Missouri bar and the National Conference of Bar Examiners in 2006. See ERROR OF LAW § A & C.

21. **Admit**

22. **Error alleged and countered:** Applicant had tendered the final ruling of the Kansas disciplinary investigation to the Board on August 4, 2008, six months earlier. See Ex 32. Dr. Bowman's report was filed with the IBLE on January 22, 2009. ERROR OF LAW § C

23. Admit.

24. Admit.

25. **Error alleged and countered:** "I conclude Mr. Brown's passion for helping his friend get a job overwhelmed his ability to see his behavior in context." Ex 47B, p.5, L.17 "In the incident leading to his ethics investigation, his allegiance to his high morals interfered with his ability to clearly see the context of his actions." Ex. 47B, p.5, L.35. ERROR OF LAW § C

26. Admit.

27. Admit.

28. Admit.

29. **Error alleged and countered:** If minutes and transcript of the of the [sic] January 25, 2008 meeting exist, they have not been copied to the Applicant. See Applicant's testimony at TR 178-179. ERROR OF LAW § A & C.

30. **Error alleged and countered:** See above. Applicant is being informed of the substantive nature of the Board's concerns for the first time in a final order. ERROR OF LAW § A, B, C & D.

31. **Error alleged and countered:** The Kansas attorney assigned to investigate the ethical complaint stated "Respondent . . . admitted he was wrong to use the letterhead and stated that he had made a mistake or was simply guilty of bad judgment." Ex 20, p.3 of 4, and that "this investigator does not believe it is a serious breach of the model rules," *id.* and suggested "minor discipline . . . and further that the Respondent should avail himself of the Diversion Program." The Kansas investigator further noted that, "Attorney General Morrison . . . believes the

Respondent's conduct is not harmful, that he should receive only minor discipline and should receive a diversion." *Id.* ERROR OF LAW § C

32. **Error alleged and countered:** Remorse is sorrow, shame, penitence. All are evident at bar. See, e.g. Ex 20. The record shows remorse, and Applicant herein vouches for his subjective sincerity in rebuttal of the Board's opinion that it is not "true remorse." ERROR OF LAW § C

33. **Error alleged and countered:** "The Review Committee determined that the complaint against you should be dismissed for lack of clear and convincing evidence." Ex 32 While this letter did not state which of Applicant's ten motion [sic] to dismiss, if any, had brought about this result. ERROR OF LAW § C

34. **Admit that there was no actual rule violation.**

35. **Error alleged and countered:** Applicant objects to "so great were the Board's concerns." Applicant is therein informed for the first time in the record that the Board had made a factual determination, as early as January 25, 2008, that there was "great reason" to be concerned about his mental health. ERROR OF LAW § A

36. Admit.

37. **Error alleged and countered:** The record at bar clearly reveals that it was JLAP, and not the Applicant, that allowed 100 days of idleness on the file. *See* Ex. 88 at p.3 -. See ERROR OF LAW § A & C

38. **Error alleged and countered:** See above.

39. **Admit**

40. Admit. Applicant asks the Court to read the May 29 letter to realize the "true remorse" and true pain that this process has visited upon Applicant and his family. See ERROR OF LAW § C

41. **Error alleged and countered:** The Board errs in stating that it met before the Ross report was filed. ERROR OF LAW § A, B, C & G.

42. **Admit**

43. **Error alleged and countered:** The Board both misquotes and misrepresents Exhibit 26. ERROR OF LAW § A, B, C & G.

44. **Error alleged and countered:** The Board's characterization of "a continuous stream" is in reality a one-sided conversation. ERROR OF LAW § B, C, G.

45. **Error alleged and countered:** The Board presents statements out of context. ERROR OF LAW § G.

46. **Error alleged and countered:** The Board errs in dismissing the report of the only expert that references Rule 12. ERROR OF LAW § A, B, C, G.

47. **Error alleged and countered:** The Board misstates the facts and process JLAP utilized to gain the Bowman report. Applicant did not "ultimately consent" to treatment with Dr. Elizabeth Bowman, Applicant was given the choice of seeing Dr. Bowman or being denied the

privilege of practicing law in Indiana. Applicant's good faith and ability to interact with the therapeutic is found in Ex. 70, p.1. ERROR OF LAW § A, B, C, G.

48. **Error alleged and countered:** The Board errs in its interpretation of Applicant's response to the Bowman report. See Ex 70. ERROR OF LAW § A, B, C, G.

49. **Error alleged and countered:** The Board errs in denying Applicant good moral character certification, in large part, upon the social worker Tim Sudrovech's "questioning" ERROR OF LAW § A, B, C, G

50. **Error alleged and countered:** The Board errs in completely ignoring the content of Ex. 70. ERROR OF LAW § A, B, C, G

51. **Error alleged and countered:** The Board errs in stating that the Applicant has "character issues that he has ignored and that have been unaddressed by him." After having been apprised of this disorder for only three weeks, and without even asking Applicant his thoughts on the same, the social worker directing Applicant's case at JLAP opined that Applicant was probably not going to appropriately accept this label and seek the needed psychotherapy to satisfy the State's agents – and thus doomed the Applicant to suffer denial as to good character and/or mental fitness via the content-free February (by design) notice, given a mere five weeks after Applicant was notified that he suffered from the politically nuanced mental illness of "Personality Disorder, Not Otherwise Specified."

Applicant now learns for the first time that the Board not only views him as mentally ill, but also as incorrigibly so. Thus, short of a miracle (or Applicant finding a new religion), Applicant has little reason to hope for a different outcome when he applies again in 2014. It appears that the Board fails to grasp the federal issues incident to the American with Disabilities Act inherent in this fact pattern, just as they fail to grasp the historical parallels to a Union that once existed just east of Berlin that saddled its dissidents with similar diagnoses. See Ex. 31. ERROR OF LAW § A, B, C, G

52. **Error alleged and countered:** The Board errs by not noting that two orders proceeded from the federal court. The injunction issued in 1990. The plaintiffs were granted an award of attorneys fees on February 20, 1991. The federal court recently noted that the Applicant at no time was charged with contempt under either. Please see August 6, 2009 decision in this matter and representations of the Honorable Judge William C. Lee found therein, available on PACER.

53. **Error alleged and countered:** Applicant stated that he could not, "in good faith," make voluntary payments. Applicant did ensure that plaintiffs knew of his return to Indiana and willingness to accept service of process. Ex. 26, attachments. Furthermore, as the Applicant argued at the June 1, 2009 hearing, the Board cannot know what advantages the plaintiffs may have gained from not pursuing the Applicant. See TR 155-56. ERROR OF LAW § B

54. **Error alleged and countered:** That process began in Summer of 2008, Ex 26, and then on April 23, 2009 (Ex 55) and then in the filing in federal court that culminated in the August 6, 2009 order.

55. **Error alleged and countered:** Applicant was following the law. ERROR OF LAW § B and ERROR OF LAW § F

56. **Error alleged and countered:** The federal court from which the judgment issued seemingly held a different view. See August 6, 2009 order. ERROR OF LAW § B and ERROR OF LAW § F

57. **Error alleged and countered:** The Board took judicial notice of the August 6, 2009 order of the Court while ignoring all of Applicant's June 10, 2009 filed Post Hearing motions.

58. **Error alleged and countered:** This matter was "sprung" on Applicant at the June 1, 2009 hearing, and was not disclosed to Applicant as a concern prior to that hearing. Furthermore the Board refused to receive any evidence or argument responsive to these allegations after the hearing. Ex B7-2-G. ERROR OF LAW § A.&C

59. Admit.

60. **Error alleged and countered:** Applicant was hired as a probationary employee in the fall of 2008, and did not become a permanent employee of 80/20 until January 7, 2009. Applicant then asked his employer to write a recommendation revealing the permanent employment status, which employer tendered to the Board on January 8, 2009. Ex 65A Applicant was laid off

from 80/20 in April, and promptly notified the Board of this change in status. Ex. 59A, § 3. ERROR OF LAW § A and ERROR OF LAW § C

61. **Error alleged and countered:** The Board errs in refusing to entertain Applicant's explanation of his status with The ArchAngel Institute, Inc. in Ex B7-2-G. ERROR OF LAW § A and ERROR OF LAW § C

62. **Admit**

63. **Error alleged and countered:** The Board errs as that Applicant discussed his work with The ArchAngel Institute with Judge Nancy Boyer and with Dr. Stephen Ross, both persons with whom the Board ordered Applicant to discuss his application. See Ross report.

64. Admit

65. Admit.

66. **Error alleged and countered:** The Board errs in presuming that at [sic] standardized system exists, with rules and deadlines, for such updating. ERROR OF LAW § C

67. **Error alleged and countered:** Applicant stipulates to the Board's admission that its allegations regarding the Kansas-based creation of the Brentwood letterhead (named after the street address of the Applicant's home) is trivial. (See, e.g, Dr. Bowman, "[Brown] attempted to honestly and completely convey his history as he views it." Ex 47B, p.2, L.15. He often stated that he wanted to 'lay everything on the table' and 'to

be as transparent as I can." Ex 47B, p.7, L.44. ERROR OF LAW § A and ERROR OF LAW § C

68. **Error alleged and countered:** This allegation is first leveled in the Board's final report and cannot be subjected to cross examination or independent verification. The Board does not identify the facts supporting its conclusory statement that Applicant visited "annoyances" upon the Board (occurring on or before January 25, 2008) that were "so pervasive as to induce the Board to require evaluations by directed by JLAP." (These annoyances are undisclosed in the Board's February 1, 2008 order, Ex 14) The Board further errs through circular reasoning, stating that Applicant's lack of insight caused the Board to remand Applicant to JLAP, said remand then proving Applicant's lack of insight. Such circular reasoning may evince animus. ERROR OF LAW § A and ERROR OF LAW § C.

69. **Error alleged and countered:** The Board errs in setting up the subjective quality of "insight" as a condition for character and fitness. Board is wrong to judge him against criteria other than that supplied in Rule 12. ERROR OF LAW § A, B, C.

69a. **Error alleged and countered:** Applicant asks the Court to review the report of the Kansas investigator, Ex 20, and the thorough report of the Applicant filed at Ex 15 and Ex 21. Applicant also objects to the allegation that his remorse is not "genuine." It is. ERROR OF LAW § A, B, C

69b. **Error alleged and countered:** See para. 19 and explanations therein. ERROR OF LAW § A, C, G.

69c. Admit.

69d. **Error alleged and countered:** Another repeated paragraph. ERROR OF LAW § A, B, C, G

69e. **Error alleged and countered:** The Board errs in demanding that Applicant be punished for a "lack of insight" for uncovering Dr. Elizabeth Bowman's anti-Catholic and anti-male works of pop psychology (search internet) and confronting those who ordered him to Dr. Bowman with those facts. The Court is asked to review the statements of Ex 56 and realize that Applicant is prepared to articulate a factual, nonconclusory reason for each one at oral hearing in this matter. The Board also errs in attempting to punish Applicant for filing a motion to strike a document that, in light of the Bowman record, evinces discriminatory biases that would never be allowed if the underlying facts were racial, gender or sexual orientation. See B7-2-K and B7-2-L and Ex 88. ERROR OF LAW § A, B, C, G

69f. The Board errs in demanding that Applicant be punished for a "lack of insight" for filing a motion that the Board granted and for moving to cure defects in the record at the onset of the June 1, 2009 hearing. See TR 7-12. For asking that Applicant be punished for filing Post Hearing motions that sought to work with evidence already adduced or answer open questions arising at the hearing of the matter.

For alleging that Applicant caused both Books B7 to be produced. (Compare para. 19, supra) ERROR OF LAW § A, B, C, G

69g. **Error alleged and countered:** The Court is asked to review the actual writings of Applicant at Ex 70 and Ex 11, B7-2-C. ERROR OF LAW § A, B, C, G

70. **Error alleged and countered:** The Board errs in reading into Applicant's conduct through this 30 month investigation a lack of "the requisite good moral character." While "lack of insight" may be a shortcoming, it should not be one that bars one from the bar. First, because it is not found in Rule 12. Second, because it is subjectively evaluated ("perceiving in an intuitive manner"). Third, because it is rare among humans ("[t]he capacity to discern the true nature of a situation; penetration"). Just as graduating *summa cum laud* from law school should not be a prerequisite, just as arguing successfully before Justice Samuel Alito (while he was yet Judge Alito) or other federal appellate courts should not be a prerequisite, Ex 59A, just as "practicing law for several years . . . without significant incident" infra, or just as tendering 79 letters of recommendation from such lights as former Attorneys General, deans of law schools, co-counsel, high ranking prelates, judges and even opposing counsel should not be a pre-requisite, so too, demonstrating that special quality called "insight" should not be a requisite to bar admission in Indiana. ERROR OF LAW § A, B, C, G

71. **Error alleged and countered:** The Board errs in filing paragraphs purporting to be conclusions of law that fail to cite any legal authority. **(Continuing objection).** ERROR OF LAW § A

72. **Error alleged and countered:** Having seemingly concluded, two paragraphs before, that Applicant "lacks the requisite good moral character" the Board then concludes that "his primary shortcomings [are] in the area of fitness." ERROR OF LAW § A, B, C, G

73. **Error alleged and countered:** The Board also errs in positing the conclusory statement that "the Applicant's conduct throughout his interactions with the Board fell far below standards of civility." Applicant did not "pick a fight" with Dr. Ross. ERROR OF LAW § A, B, C, G

74. **Error alleged and countered:** Almost every religion adheres to the proposition that adherents have the "obligation to disobey laws that contradicted . . . religious beliefs under certain circumstances." The Board cites no facts supporting the conclusory charge (first made in its final report) that Applicant "flouted" the judgment that the Board admits to be "no longer [as of August 6, 2009] a legal obligation." That Applicant indicted that "he would not obey certain court orders and judgments he believed to be unjust" is no reason to disqualify him. "A member of the Indiana bar must obey Indiana law and federal law, even when doing so violates [that] attorney's conscience,. . . . an avowed

willingness to not to do so is disqualifying." This is the very same positivism that led our German cousins to the legally operating "work camps" of which it is said "never again." ERROR OF LAW § A, B, C, G

75. **Error alleged and countered:** Applicant's civil disobedience, which the Board labeled benign to his cause earlier in the report, show up in the ostensible "conclusion of law" to be held against the Applicant as "precipitous acts" incident to the loss of his wife of ten years. There is no evidence at bar to support the Board's "legal conclusion" that they have "no comfort that he would seek assistance" if again subjected to such stresses as the politics of personal destruction, the loss of a spouse and/or career death. ERROR OF LAW § A, B, C, G

76. **Error alleged and countered:** What the Board attempts to present as a "refusal to cooperate" and "attempt to manipulate" JLAP was nothing more than Applicant seeking an opinion other than the experts hand picked by JLAP and/or the Board. The Board's allegation of Applicant's alleged constant demeaning and criticizing is not evidenced, for the evidence is rather the Applicant's letters setting forth his grave concerns about the heavy handed statist tactics that he was documenting. ERROR OF LAW § A, B, C, G

77. **Error alleged and countered:** Given statements available on the internet it is rational to conclude that Dr. Elizabeth Bowman is biased. Applicant asked Judge Nancy Boyer if anything

in the record of the federal case should have caused her recusal. The letters speak for themselves. ERROR OF LAW § A, B, C, G & E.

78. **Error alleged and countered:** The Applicant confessed under oath the rules that are binding upon him. It is not wrong for [sic] to ask for an independent evaluation if religion and politics are being used to judge a bar applicant. ERROR OF LAW § A, B, C,

79. **Error alleged and countered:** The Board errs in the conclusion that this process could be reasonable said to have concluded that "Applicant was determined to have a personality disorder [] that are unacknowledged and unmanaged by the Applicant." No citation to the record is made to support this allegation, which is leveled for the first time in this document. Furthermore no criminal, civil or professional rules are cited as supporting the allegation that whatever Applicant communicated was "contemptuous and hostile" enough to justify a five year ban (actually seven) from the practice of law in Indiana. It appears that Applicant has violated no rules or laws or ethics, but he will have to wait another five years to attempt to become an Indiana attorney. ERROR OF LAW § A, B, C, G & ERROR OF LAW § D (Equal Protection and Unequal treatment)

80. **Error alleged and countered:** The Board errs in recommending that Applicant be denied the ability to apply for the Indiana bar until 2014, a full seven years after his tender of April, 2007. This "sentence" does not comport with

previous rulings on such matters and thus is alleged to offend due process. ERROR OF LAW § A, B, C, G & ERROR OF LAW § D (Equal Protection and Unequal treatment)

[Appendix B And C Omitted In Printing]

APPENDIX A

In order to allow a quick overview of my file I herein tender, under penalties of perjury and with citations to the record, my defense of my own good moral character as understood against the backdrop of Rule 12 and the applicable case law. Almost all of this can be accessed through the transcript of the June 1, 2009 hearing.

1. I was graduated summa cum laude from an accredited law school in 1996. Ex 73.
    i. Find in the file letters from deans, professors and supervisors Ex. 74.
    ii. No allegation of any criminal wrongdoing since law school in 1993
    iii. No felonies at anytime in my life
2. Admitted in Kansas in 1996.
    i. Letters from Kansans I worked alongside. Ex 83, throughout.
    ii. Admitted in Kansas without concern of special processing.
3. Invited to sit for Montana bar in 1996, having passed their character and fitness review on the face of my application.
4. Interviewed in Indiana.
    i. Report of IBLE evaluator Kelly Huebner Ex 75
    ii. Ordered to Indianapolis for Board interview. Ex 76

iii. When I could not (Ex 77) my Indiana application was allegedly "put in abeyance" and not to be reactivated unless I requested the same by October 15, 1997. Ex 78.

iv. I did not request the same.

v. See Post-Hearing Motion # 6, section C (Ex B-7-2H)

5. Fulltime practice of law in Mississippi from 1996-2003.

i. Letters from co-counsel, supervisors, friends. See PowerPoint slides on "79 witness statements"

ii. One ethical complaint during that time. Investigated and dismissed. Ex 1G

6. Admitted to the Bar of the United States Supreme Court, 2000. Ex 1B

7. Deputy Attorney General of Kansas Office of Attorney General, 2003-2007 Ex 59A

i. Bitterly partisan political situation. Ex 30

ii. Letters for those I supervised, those who supervised me, others in State government and co-counsel. See PowerPoint slides on "79 witness statements"

iii. Involved in processing of 20,000 complaints, more than 4,000 investigations and more than 200 court filings, no ethical or professional charges. Ex 59A

iv. Revamped that government agency to ensure that due process was followed in all investigations.

8. Invited to sit for the Missouri Bar Exam in 2006.

v. Investigated by both the Bar Examiners and the National College of Bar Examiners. Ex 1.

vi. Refused reciprocity due to residence requirement. Ex 1

vii. Invited to sit for Missouri bar, having been found to have good moral character and fitness by both Missouri and the NCBE in 2006.

9. Unemployed and underemployed in 2007.

i. Wrote letter on former (defaced) letterhead of Consumer Protection Division seeking job interview for law enforcement officer who was subjected to biases due to political associations.

ii. Ethical complaint filed by recently elected Attorney General.

iii. Ethical complaint fully investigated and then dismissed on merits.

10. Applied to Indiana bar prior to deadline for processing for July, 2007 exam.

i. File was not processed in time to rule on July exam.

ii. Reviewed by Judge Nancy Boyer in Fall, 2007.

iii. Ordered to Indianapolis, stood on January 25, 2008.

iv. Ordered to complete full psychiatric workup and did so.

11. Evaluations tendered to the Board by my professional counselors:

i. Valeo (Topeka) Single issue depression and anxiety arising from vocational issues. (Fall, 2007)

ii. Psychologist Dr. Stephen Ross "He appears to have moral integrity but an idiosyncratic style . . . " Ex 24. p.7 (April, 2008)

iii. Rev. Dr. Thomas Sass, DD, PCS, MA, M-DIV "A person of high integrity and honesty, extremely upright and moral, emotionally and psychologically stable,." Ex 65C (May, 2008)

iv. Park Center Clinician Denise Gephart: "General functioning: Insightful and competent" "insight and judgment are normal," "mood/affect is normal," "normal thought content," "The client was oriented three times, normal mood, and normal judgment and insight, behavior was a little over-anxious." Ex 46 (May, 2008)

v. Rev. James F. Seculoff, Ed.D. "Trustworthy and very honest emotionally stable." Ex 65J (May, 2008)

vi. Most Reverend James D. Conley, S.T.L., Auxiliary Bishop his "strongly held convictions strong inner character and a special

quality that is often lacking today . . . honorable, trustworthy, and works with diligence and dedication . . . " Ex. 65S (May, 2009)

vii. Psychiatrist Bryan F. Flueckiger, M.D. "Regarding "good moral character," it is my opinion that Mr. Brown **DOES MEET** this standard without question. . . . Regarding "fitness," it is my opinion that Mr. Brown **DOES MEET** this standard." Ex 52, emphasis in original. (Fall, 2008)

viii. Psychologist William Alexy, Ph.D. ", generally his feelings and emotions are normatively controlled and well-modulated . . . reality testing within normative expectations . . . can generally be expected to behave according to social convention. . . . no suggestion of a significant thinking disturbance. . . . I certainly can see Bryan functioning adequately as a practicing attorney." Ex 45 (Nov. 30, 2008)

ix. Psychiatrist Dr. Elizabeth Bowman "Overall, my findings are consistent with those of Drs. Ross and Alexy. to have moral integrity." P.9, L.10 "Mr. a strong conscience and high moral standards, He clearly has moral integrity which has consumed his life and led, has, at times, to principled civil disobedience. ", he firmly believes he is obligated as a Christian to put obedience to God's laws above human laws. All of his history of civil disobedience is related to his work against abortion and is a response to

his conscience rather than sociopathic lack of conscience." P.4, L9 Ex 47B (Filed January 22, 2009)

12. I performed all asked of me and even more, expending over $4,000 in psychological services and traveling almost 1000 miles to benefit from the same.

13. I even offered to drive 1500 miles (round trip) for another evaluation at Valeo when it became evident that JLAP was operating off of a very finite "favored listing" of Indiana psychiatrists and may have caused me to miss a deadline set by the Board.

14. I documented my due process and constitutional concerns throughout, as advised by my own experience as a constitutional law litigator and as advised by Indiana counsel.

15. I defended my rights of conscience and religious beliefs throughout as is my habit and religious practice.

16. I was denied in an order that failed to disclose why I was denied. Ex 48. I timely appealed that order.

17. I explained my religion (which was put at issue from my very first visit with Dr. Stephen Ross), myself and my record calmly and with reasoned arguments on June 1, 2009 addressing all of the "nonexhaustive" areas of concern that the Board reluctantly disclosed to me. Transcript.

18. I tendered Post-Hearing motions that were, in essence, ignore by the Board of Law Examiners.

Most of them sought rulings upon material already before the Board. See Exhibit Book 7A.

19. I was officially released from federal judgment that had likely already lapsed as a matter of law in an order dated August 6, 2009. (Transcript of hearing and order attached hereto)

20. I herein raise due process, free exercise, free speech, equal protection and other claims based on enumerated laws and statutes as set forth in the sections entitled "Error of Law."

SIGNED UNDER PAINS OF PERJURY WITH TESTIMONIAL INTENT

/s/ Bryan J. Brown WITNESS /s/ Anne M. Keehe
Bryan J. Brown

DATE 10/21/09

STATE OF INDIANA

COUNTY OF MARION

BEFORE A HEARING PANEL OF THE
INDIANA SUPREME COURT STATE BOARD
OF LAW EXAMINERS

IN THE MATTER OF:

BRYAN BROWN
Applicant No. 24128

The hearing in the above-referenced matter was held before Board of Law Examiners members Leslie Shively, Jon Laramore, and Charlotte Westerhaus, on the 1st day of JUNE, 2009, at 30 South Meridian Street, Suite 850, Indianapolis, Indiana, and reported by me, Marjorie A. Addington, Notary Public in and for the County of Hamilton, State of Indiana, CM, CSR: KS.

ACCURATE REPORTING OF INDIANA
William F. Daniels Prop. RPR/CP CM
12922 Brighton Avenue
Carmel, Indiana 46032
(317) 848-0088

* * *

[45] MR. LARAMORE: Well, maybe at some point today, and perhaps this is in your plan already, you can address situations when you might choose to obey natural law rather than statutory law or court orders, how you would make that decision when your beliefs would lead you to do something other than what law mandates, and you can do it now

or you can do it when it comes up in your presentation if you'd prefer that.

CHAIRMAN SHIVELY: And I didn't want to take away from your presentation, I think Mr. Laramore set it out very well, you can either address that now, but I think in fairness to you, this is a question that's on the minds of this panel –

MR. BROWN: Sure.

CHAIRMAN SHIVELY: – in our gatekeeping role, okay, and so if you want to address it, because you sort of have drifted into that area –

MR. BROWN: Yeah.

CHAIRMAN SHIVELY: – and this might be a time to do it, but I'm not telling you how to do your presentation. If you think there's a more appropriate place in your presentation to do that, you make that call.

[46] MR. BROWN: I am honored to be asked that question. Too often in American law I am afraid that we have very narrow blinders and we don't really stop to ask the bigger philosophical operations, that's one of the reasons I front-loaded my presentation today with the philosophical was to get to that issue and get to that broader – We're still pretty much at "50,000 feet." I'm on my second module but we're at "50,000 feet" and we're going to get into that and right now this is actually what we got into. JLAP's psychiatrist that they chose to send me to, Dr. Bowman, said that "Like many people of

faith of past millennia, Brown firmly believes he is obligated as a Christian to put obedience to God's laws above human laws. Brown's personality" – and I actually edited that, it says "personality disorder," but I think the disorder that she picked up is my personality, that's just who I am, I mean you can label me disordered because I have views like this, that just is a label, I am who I am. "Brown's personality has impelled him to sometimes impulsive activities driven by his religiously-informed conscience. He remains at risk for losing perspective on his behaviors." I [47] believe that's the question of the Bar which was just asked of me is how do you balance that, how do you know when you should obey man's law versus God's law? It's a great question.

MS. WESTERHAUS: Before you go on, please go back to the other slide, my question will probably be more direct. No, not that one. Go back to – No, keep going forward, keep going, keep going, keep going, one more, keep going, you've got to keep going.

MR. BROWN: I'm sorry, where are we going?

MS. WESTERHAUS: I'm looking for the quote you just were quoting from, you quoted from I think it was Dr. Bowman's evaluation of you. That one. Thank you. I'm sorry, I didn't know you were going forward.

My question's direct, is that correct that first sentence, do you firmly believe you're obligated as a

Christian to put obedience to God's law above human law? That's my question to you.

MR. BROWN: Do I firmly believe that I am obligated to put obedience to God's law –

MS. WESTERHAUS: Is that assessment correct? The question is is that assessment [48] correct?

MR. BROWN: Yes.

MS. WESTERHAUS: Okay.

MR. BROWN: If I could, now having answered the question directly, if I could discuss a little bit.

MS. WESTERHAUS: Feel free to.

MR. BROWN: According to Romans Chapter 13 and the teaching of the catechism of the Catholic Church, in most instances the two are in agreement. God is the one who established government over us and as a Christian I am to obey government, but that does not render me a positivist.

A positivist says every law is the same, every law is to be obeyed and there is no higher authority to judge the law than the law. Therefore, a positivist in Nazi Germany would not have rescued Jews because it would have been against the law. A positivist in Alabama in 1857 would not have taken part in the Underground Railroad because it was against the law. A positivist would've never dumped tea in the harbor of Boston because it was against the law. So

these things have to be nuanced and balanced and [49] they have been for 2000 years, it's part of the strength of our civilization.

MS. WESTERHAUS: I have one more question.

MR. BROWN: Yes.

MS. WESTERHAUS: You've referred to various statutes that we have here in helping us determine and define mental fitness and/or character. Would you characterize those as being human laws?

MR. BROWN: I don't think they came down from Sinai and so they have to be characterized –

MS. WESTERHAUS: That's a "yes" or "no," do you characterize – So your answer to that question is yes?

MR. BROWN: Yes, they are human laws.

MS. WESTERHAUS: State statutes, would you characterize those as human laws?

MR. BROWN: Yes, I would characterize those as human laws.

MS. WESTERHAUS: Federal legislation, regulations, would you characterize those as human laws?

MR. BROWN: I would characterize – All federal legislation by definition is created by [50] Humans, yes.

MS. WESTERHAUS: The Constitution, would you characterize that as a human law?

MR. BROWN: The Constitution is an organic document that is indeed a human law, yes.

MS. WESTERHAUS: Thank you.

MR. BROWN: My badness that the psychiatrist points out is actually codified and discussed at the catechism that I have sworn on oath to uphold at Paragraph 399, "*Citizens are not obligated in conscience to follow the prescriptions of civil authorities if their precepts are contrary to the demands of the moral order, to the fundamental rights of persons or to the teachings of the Gospel.* Unjust laws pose dramatic problems of conscience for morally upright people: when they are called to cooperate in morally evil acts they must refuse. Besides being a moral duty, such a refusal is also a basic human right which, precisely as such, civil law itself is obligated to recognize and protect. Those who have recourse to conscientious objection must be protected not only from legal penalties but also from any negative effects on the legal, disciplinary, financial and professional plane." [51] This is my church saying that the view that I just espoused should not cause this panel to reject me as an attorney. That, of course, is not binding upon this panel, but it is indeed the code to which I subscribe.

My Pope, the Pope, Benedict the XVI, recently said having a clear faith, based upon the creed of the church, is often labeled today as fundamentalism,

whereas relativism, which is letting one self be tossed and swept along by every wind of teaching, looks like the only attitude acceptable to today's standards.

There have been encyclicals written in recent past, primarily Veritatis Splendor, I'll get you the spelling, Latin, The "splendor of truth" is the English, was released in 1994 and it wrestles with this entire issue, and, Mr. Laramore, Attorney Laramore, I would ask you to consider reading Veritatis Splendor to have that question answered in full.

In that John Paul II said in modernity we're seeing more and more conflicts between man's law and God's law, we're seeing more and more of a divergence in the west between that which the west held on and carried on for 1900 years and the [52] emerging modern nation state and he wanted to lay out for believers like myself the foundational stones that we must touch and wrestle with in order to know when it's time to take a stand like one of my heroes, Dietrich Bonhoeffer did in Germany in 1943.

MS. WESTERHAUS: Mr. Brown, one last question, it probably won't be the last question but I want to make sure I stay on point with your PowerPoints. The last PowerPoint this one you have term called "badness," "my badness," Is that your characterization or is that something that was contained in one of the evaluations by the psychiatrist or psychologist or counselors?

MR. BROWN: Thank you, ma'am, that is mine, the "badness," I should've put that in quotes, that was not in any of the terms of the professional reports, it has only appeared in my record in this PowerPoint.

MS. WESTERHAUS: Thank you.

MR. BROWN: There's an application of this for me in pre-law school, it is the Judge Kelly letter, which shows me before I actually swore allegiance to the Catholic Church in 1994 wrestling with these very same issues and actually [53] standing on conscience and being incarcerated, civil contempt, later vacated for refusing to promise the judge when he asked me to promise and pledge to what I knew to be, what I felt to be an unconstitutional order that was already on appeal and that I felt to be a violation of my religious rights to ask me to make that promise.

I did tell Judge Kelly, and it's in the letter, "I will acknowledge your law, I will acknowledge that you can put me in jail for six months if I violate the injunction, but I cannot promise that the rest of my life that I will obey an injunction that violates my religious rights and that I believe is a manifestly overbroad and unconstitutional against our organic documents, which later was found it was.

An application from American history, "Sometimes a law is just on its face and unjust in its application; for instance, I have been arrested on a

charge of parading without a permit." Now, it's not me speaking but I have been as well.

Now, there is nothing wrong in having an ordinance which requires a permit for a parade, but such an ordinance becomes unjust when it is [54] used to maintain segregation and to deny citizens the First Amendment privilege of peaceful assembly and protest. I'm sure you all know that's also "Martin Luther King, Jr., Letter from a Birmingham Jail," which I would put right up there with my catechism as far as it's an American glossing, one of the best expositions in a cogent form, I could take lessons from him, on how to lay it out.

My personal codes are Steve Covey's 13 traits and the Code of Chivalry. I read Steve Covey for the first time around 2000 and picked it back up in 2007 when I was unemployed and found in his 13 traits really things that I had adopted my entire life and things that I should aspire to do even better.

What he did is he went through internationally and said "What are the 13 traits that are exhibited by great leaders, people who really make a difference in this world? Talk straight, don't sugarcoat it, just throw it out so open discussion can result, and again thank you, Attorney Laramore, for asking the question this morning so we could. Demonstrate respect, respect persons but dissect ideas. Not all ideas are the same, an idea can be a hair-brained idea, it can [55] be a wonderful person, respect the person with it, but we really need to take our ideas and lay them

down and make sure they meet logical demands and fit with what's good, what's the common good in our country. Create transparency, that's an antiseptic that cleanses wounds and clears up misconceptions.

I believe in total transparency in government, every government proceeding should be open to the public, I believe. Now, obviously it doesn't mean I have the power to do it, but I think the Founding Fathers certainly thought that openness was the way to go.

Right wrongs, do not let slightings fester, open up and fix them. Show loyalty, to have a friend you need to be a friend and you especially need to be a friend to those who are suffering injustices. If you have a friend going through a hard time and an injustice, that's when you need to be their friend.

Deliver results, anyone can talk. Get better, you need to get help when help is needed, not be afraid to cry out and ask, but never say die at the same time, don't give up, you fight it. Confront reality, do not play games or self-delude [56] yourself or others. Clarify your expectations. I'm good at communication, I'm always good at asking help, I'm not always good at delegating to others what I think they need to do, that's one I've been working on. Practice accountability, challenge and seek explanations when things don't turn out as you'd expect.

Listen first. This is a great Conveyism, seek first to understand and then be understood. Keep commitments, my word is my bond. My father was the

same way, his grandfather was the same way, we say it and then we do it. And extend trust, don't let specific burns result in generalized scars.

I have not felt, to be quite honest, that everything's gone the way I'd like it to have gone with this committee, but when Charles Kidd reached out to me and said "I'm the attorney for the Board," I think we quickly established a trust relationship and I was willing to trust him and I haven't doubted that choice.

As far as chivalry goes, Lord Alfred Tennyson laid it out to four simple instructions, again someone I could probably take many lessons from, live pure, speak true, right wrong, and [57] follow Christ the King. I've dedicated my entire life to Proverbs 3:5-6 "trust in the LORD with all your heart and lean not on your own understanding; acknowledge him in all your ways and he will direct your paths." It's basically the same idea. It sounds simple, it sound easy, but it's been very controversial in a lot of ways.

I taught this from popular literature to my sons, they're learning it, I think it's great, it is popular, so for that it gets bad marks, but as far as a cogent explanation for what chivalry is, "A Knight is Sworn to Valor. His Heart knows only Virtue. His Blade defends the Helpless. His Might upholds the Weak. His Word speaks only Truth. His Wrath undoes the Wicked."

I actually sent this off in a letter to Stan Hazlett of the Office of Disciplinary Counsel in December of 2006 trying to get a job there, though I was well

equipped to be in that office, he said it was one of the most creative applications he'd ever received and cover letters and he'd keep it on file, but there was no opening available. To get to know me still you need to know three of my role models, John Brown taught me, my father, to honor God, do my duty, that [58] women and children must come first and that all men are created equal. Everyone puts on their pants one leg at a time in the morning, he always told me, and I shouldn't think of others or myself more highly than the rest of those around me.

My role model No. 2 is St. Paul the Apostle. I was actually born on his Feast Day, January 25th, 1959. I was down here last before you all on his Feast Day, January 25th, 2008, my 49th birthday, no one told me "Happy Birthday!" that day but I don't fault you for it, it's a voluminous record, it's easy to overlook, but it was my birthday, that's fine. Paul the Apostle said "Preach the word in season or not, live the faith, argue your case," he made his appeals all the way up to Rome, "and be prepared to suffer in this life."

My third role model is St. Thomas More, through him I learned to live the true law, to give even the devil the benefit of the law, to never ignore the foundations of your social order, and to be ready to pay the ultimate sacrifice for principle if asked of you. So all is context. I view this oath that I will be asked hopefully some day by this Board to recite by the Supreme Court, [59] I view it all in context. I respect and revere the Oath that I took in 1980 to be married to Ellen Darlene Bledsoe until death do us part. She

undid that in 1990 and that left me in quite a quandary. "What do I do?" I had friends telling me that the Bible said I could remarry, I had friends telling me that the Bible said I couldn't remarry, it was one of the things that pushed me toward the Catholic Church.

Before becoming Catholic I went before their tribunal and presented my marriage and said "I've said an oath, I made an oath, I don't know what to do," and they gave me a bill of nullity after a 15-month review of my case and said that "The oath is not binding upon you, Son." I then asked my current wife to marry me, did not ask her before I was released from the oath.

That allowed me to take an oath in 1994 to Anne Walker Brown, an oath that I will hopefully be able to keep to the end of my days, to love her and cherish her and to be together until death do us part. I took an oath also in 1994 to the Bishop of the church in Wichita, Kansas to be faithful and loyal to the Magisterium of the church. This too I take with great respect [60] and honor. In 1996 I was honored with the ability to swear an oath in September to the Kansas judiciary to uphold the laws of Kansas, to uphold the Constitution of Kansas. I actually had already won a Kansas constitutional case while I was a Christian activist in Wichita, it's in the file, it was written by Honorable Paul Clark, I think it's one of the best cases on file yet in Kansas dealing with the constitutional law issues and the rights of religious freedom in Kansas.

I respect and revere that oath that I took in Topeka in 1996 and I respect and revere the oath that I took in Topeka in 2003 when I was sworn in and deputized as a Deputy Attorney General. I took that oath as seriously as any others. I actually went to the swearing in of the new Attorney General on January 8th, 2007 and knew that at noon when he was sworn in on the Capitol steps in Topeka that I was relieved of command and then left the office, not to return.

I'm ready and willing to take the oath today, if any of you are so predisposed, with a full appreciation of its philosophical and moral foundation and the very reason that it was put in place by honorable men and women of days gone by.

* * *

[130] My case is huge, it's now five notebooks. A presumption would make it much easier. If we had a presumption that good moral character is presumed where an attorney had been admitted to the Bar of another state, was a member of that Bar in good standing and was not shown to [131] have been guilty of unethical conduct as such a nature to justify disbarment in that state, if that were the presumption, then our jobs today would be much easier, that is the presumption that George L. Blum reports in the "American Law Reports" at ALR 5th. That is not binding upon this panel, of course, but it is a presumption that I would certainly like to have.

I am enjoying good standing in Kansas, this is from the 5th of May, 2009, Exhibit 53, my statement of good standing.

* * *

[233] MR. BROWN: Okay. What constitutes a prima facie case under such a unique circumstance as mine? If letters from attorneys, law school professors, judges and former employers attesting to an applicant's moral fitness for the practice of law are significant enough in a normative position, how about more than 65 affiants submitting more than 75 statements, two former Attorneys General who worked closely with the applicant, two IBLE-appointed reviewers recommending the applicant after their reviews, numerous deans and professors recommending the [234] applicant, real live attorneys who have worked beside me, the applicant, four mental health professionals that I say their reports didn't find anything that should keep me from being licensed.

Maybe it says that I'm a jerk, I'm hard to get along with, I'm too friendly, I'm too happy, there's a lot of different things in there, but I didn't see anything there that should keep me from becoming an attorney, and I've been an attorney for 12 years.

Six mental health testing devices, by my read none of them but the MMPI returning anything that's troubling; a Bishop, a priest, and two pastors recommending me, and then the applicant is a member in good standing of a foreign Bar, 12 years of licensure, two complaints, none of them self-dealing,

no final judgments or diversions. I had subpoena power and controversial cases, many enemies, much spotlight, really haven't gotten in too much trouble. I made a bad mistake on Columbus Day, which I've explained.

I ask if I enjoy any presumptions at all? The ALR says that there is a presumption for me because I'm a Kansas licensed attorney. I haven't done any unethical conduct of such a [235] nature as to justify disbarment. Even the complaint against me, the Office of Disciplinary Counsel seemed to think that it was a minor thing that I needed to maybe have a diversion. I mean, we all make mistakes.

I found a law professor that I really liked what he said which means I'll quote it, this was back from the '96 application. "Character, good moral character may carry class connotations which are culturally defined. In the past, the character a professional should display was often defined by the class characteristics of the more successful leaders and went beyond the ethical virtues," the big four that we talked about, honesty, trustworthiness, diligence, reliability, "to notions of civility, demeanor, political attitudes and behavioral style."

McDowell says, Professor McDowell goes on to say "There's a second difficulty caused by the application of the concept of good moral character to a series of problematic moral issues over which there is currently ideological or political disagreement." Those are rife in my file, not just the abortion issue,

obviously, but even the MMPI. The politics of personal [236] destruction, I'm just – none of you have ever seen your career blow up on the television in a month, I did, and I'm not telling you to feel sorry for me, I'm not going to pull some Kleenex out and cry, but I'm telling you it was real and it has a dramatic and traumatic effect on you when you're a husband with four kids to take care of and a mortgage and you realize someone decided to ruin your career.

"Examples are questions of normalcy in sexual conduct, the degree to which drug use is immoral, the permissible extent of disassembling in relations with others," such as some would think that my letters to JLAP may have been too sharp, I was merely trying to preserve my rights and get answers to questions. "The acceptable range of eccentric personal conduct or opinions," I'll stipulate I'm a weird duck. Ask me a sports question, I'll flunk it. Ask me what major teams play in Indianapolis. Are the Pacers still here? Okay, I didn't know that for a fact, I mean I'm weird but if everyone weird was purged out of the Bar – "Good moral character has become a weapon in those conflicts. For example, one person may argue that a strict code of personal conduct as [237] defined by religious or moral beliefs signifies good moral character" – well, isn't that my argument – "while another not sharing that value position might argue that tolerance of human differences is a greater hallmark of good moral character."

Can my uniqueness be celebrated? Today in the law we celebrate so many things, we celebrate so many people's uniqueness. Well, I am unique. I doubt if this board has ever had anyone come in here and make the presentation I have made today. There's not a lot of attorneys out there that think like me, most of them have made statements for me, that may be the only ones in the whole country.

Justice Black makes a great point, and here is a law professor quoting him, "Back in the day the communist party was having a very hard time getting licensed 50 years ago and in his dissent in in re Anastaplo Justice Black extolled the heroic courage of lawyers who, quote, dared to speak in defense of causes and clients without regard to personal danger to themselves." I have done that, I have represented clients that were odious to their communities, and I will do that [238] again. "Regarding the need for those dissident voices in the Bar Justice Black wrote 'The legal profession will lose much of its nobility and its glory if it is not constantly replenished by lawyers like these. To force the Bar to become a group of thoroughly orthodox, time-serving, government-fearing individuals is to humiliate and degrade it. The government is being permitted to strike out at those who are fearless enough to think as they please and to say what they think.'"

50 years ago I was a Communist, today I claim this for myself. I only ask to be fairly judged against these paramount standards out of Rule 12, my honesty, my trustworthiness, my diligence and my

reliability. I do it truthfully, I do it fairly, I do it persistently, and I do it consistently, that's how I do it, that's how I roll, I will do it as an Indiana attorney if you give me the chance, I promise.

As a public citizen a lawyer should seek the improvement of the law, access to the legal system, the administration of justice and the quality of service rendered by the legal profession. I have been just that in your midst for two years, I am a public citizen, I am not an [239] attorney, I have not held myself out as an attorney, I have not practiced in a way that would offend this body. An independent legal profession is an important force in preserving government under law, for abuse of legal authority is more readily challenged by a profession whose members are not dependent on government for the right to practice.

I will never again be in government service, I am unelectable in the political realm. I'm the kind of attorney that would actually be a counterbalance, a counterweight to overreaching government because my reputation's been shredded, I've got nothing to lose. I'll be a good attorney but I will be the loyal opposition.

The profession has a responsibility to assure that its regulations are conceived in the public interest and not in furtherance of parochial or self-interested concerns of the Bar. I can take up that role. I just humbly ask the opportunity to do that. Thank you. That ends my presentation.

MR. LARAMORE: Want to take a break?

MS. WESTERHAUS: Thank you for your presentation.

[240] MR. BROWN: Thank you for your patience.

* * *

2/01/10 IN RE BAR APPLICANT 24128
Lower Cause Number: BLE

BAR APPLICANT 24128 BRIAN BROWN 827 WEBSTER ST. FORT WAYNE, IN 46802	BAR APPLICANT 24128 A
LINDA LOEPKER 30 SOUTH MERIDIAN STREET SUITE 875 INDIANAPOLIS, IN 46204 317-232-2552	BOARD OF LAW EXAMINERS O
CHARLES KIDD 30 SOUTH MERIDIAN STREET SUITE 850 INDIANAPOLIS, IN 46204 317-232-1807	BOARD OF LAW EXAMINERS O
KEVIN SMITH STATE HOUSE ROOM 315 200 W. WASHINGTON STREET INDIANAPOLIS, IN 46204 317-232-2540	BOARD OF LAW EXAMINERS O

File Date

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10/19/09 PETITION TO REVIEW FINAL DETERMINATION OF THE STATE BOARD OF LAW EXAMINERS (6) MS 10/19/09

10/21/09 BOARD OF LAW EXAMINERS' NOTICE OF TRANSMITTAL OF RECORD & RESPONSE TO PETITION FOR REVIEW (6) CERTIFICATE OF SERVICE (6) MAIL 10/21/09 MS 10/21/09

10/21/09 ****RECEIVED:
FINDINGS & CONCLUSIONS OF LAW
COPY OF TRANSCRIPT OF HEARING BEFORE BLE PANEL APPLICANT'S POST-HEARING SUBMITTALS
EXHIBIT BOOK 1A
EXHIBIT BOOK 1B
EXHIBIT BOOK 1C
EXHIBIT BOOK 2
EXHIBIT BOOK 3
EXHIBIT BOOK 4
EXHIBIT BOOK 5
EXHIBIT BOOK 6
EXHIBIT BOOK 7A
EXHIBIT BOOK 7B
EXHIBIT BOOK 8 MS 10/21/09

10/21/09 PETITIONER'S PETITION TO SUBSTITUTE ATTACHED FOR PETITION FILED ON OCTOBER 19, 2009 (6) CERTIFICATE OF SERVICE (6) MAIL 10/21/09

10/21/09 ****RECEIVED: AMENDED PETITION TO REVIEW FINAL DETERMINATION OF THE STATE BOARD OF LAW EXAMINERS AND ATTACHMENTS (6)
****AMENDED PETITION IS ATTACHED TO PETITION TO SUBSTITUTE
MS 10/26/09

10/28/09 ISSUED THE ENCLOSED ORDER:

10/28/09 FINDING THAT THE PETITION TO SUBSTITUTE IS SUBMITTED ONLY TWO DAYS AFTER THE ORIGNIAL PETITION FOR REVIEW WAS TENDERED, THAT THE STATE BOARD OF LAW EXAMINERS HAS ELECTED NOT TO FILE ANY SUBSTANTIVE RESPONSE TO THE ORIGINAL PETITION FOR REVIEW, AND THAT APPLICANT 24128'S DESIRED AMENDMENTS DO NOT MATERIALLY ALTER THE SUBSTANCE OF THE ORIGINAL PETITION FOR REVIEW, THE PETITION TO SUBSTITUTE IS HEREBY GRANTED.

THE CLERK IS DIRECTED TO FILE THE "AMENDED PETITION TO REVIEW FINAL DETERMINATION OF THE STATE BOARD OF LAW EXAMINERS" AS OF OCTOBER 21, 2009.

RANDALL T. SHEPARD,
CHIEF JUSTICE KM

10/28/09 ****** ABOVE ENTRY MAILED ******

10/21/09 AMENDED PETITION TO REVIEW FINAL DETERMINATION OF THE STATE BOARD OF LAW EXAMINERS AND ATTACHMENTS (6) KM

10/27/09 PETITIONER'S PETITION TO CORRECT CERTAIN ERRORS IN THE RECORD AND FILE ATTACHMENTS (6) CERTIFICATE OF SERVICE BY MAIL 10/26/09 JS 10/30/09

11/05/09 BOARD OF LAW EXAMINERS' STATEMENT REGARDING PETITION TO CORRECT CERTAIN ERRORS AND FILE ATTACHMENTS (6) CERTIFICATE OF SERVICE (6) MAIL 11/5/09 MS 11/05/09

11/06/09 ****NOTE: E-MAIL EXCHANGES BETWEEN SUPREME COURT ADMINISTRATOR AND BLE CONCERNING ADMINISTRATIVE MATTER PLACED WITH CASE. GP 11/6/09

11/10/09 ISSUED THE ENCLOSED ORDER:

11/10/09 HAVING CONSIDERED THE PARTIES' ARGUMENTS, THE COURT DENIES APPLICANT'S PETITION. THE RECORD IN THIS MATTER ALREADY SPANS AN ENTIRE BANKER'S BOX, AND THE VERSIONS OF EXHIBITS 87 AND 88 THAT APPLICANT NO. 24128 NOW TENDERS ARE IDENTICAL IN EVERY MATERIAL RESPECT TO THOSE ALREADY CONTAINED IN THE RECORD. FURTHER, APPLICANT NO. 24128 PROVIDES NO EVIDENCE THAT THE PRINT-OUTS HE NOW TENDERS, WHICH HE ADMITS WERE PRINTED OUT ON OCTOBER 26, 2009, ARE IDENTICAL REPRESENTATIONS OF THE ARTICLES AS THEY APPEARED ON THE WEB PAGES AS OF MAY 28, 2009, WHEN HE TENDERED EXHIBIT 88 (WHICH REFERENCES THOSE WEB PAGES AND CITES THEIR URLS) TO THE PANEL. IT IS WELL-KNOWN THAT WEB PAGES AND THE ARTICLES

CONTAINED IN THEM CAN BE, AND OFTEN ARE, CHANGED AND UPDATED. ACCORDINGLY, IF APPLICANT NO. 24128 BELIEVED THAT PRINT-OUTS OF THE INTERNET WEB PAGES CITED IN EXHIBIT 88 WERE RELEVANT TO THE CONSIDERATION OF THIS MATTER, THEN THOSE PAGES SHOULD HAVE BEEN TENDERED AT THE HEARING AND MADE A PART OF THE RECORD AT THAT TIME.

RANDALL T. SHEPARD,
CHIEF JUSTICE KJ

11/16/09 ****** ABOVE ENTRY MAILED ******

11/16/09 ISSUED THE ENCLOSED ORDER:

11/16/09 AFTER CAREFUL REVIEW OF THE SUBMISSIONS OF THE PARTIES, IT IS THE COURT'S DETERMINATION THAT THE BLE'S DECISION SHOULD STAND. ACCORDINGLY, APPLICANT'S PETITION FOR REVIEW IS DENIED.

RANDALL T. SHEPARD,
CHIEF JUSTICE
ALL JUSTICES CONCUR. KJ

11/17/09 ****** ABOVE ENTRY MAILED ******

11/13/09 ****RECEIVED 11/17/09: APPLICANT'S REPLY TO ALLEGATIONS AND ARGUMENTS ADVANCED BY THE LAW EXAMINERS IN THEIR NOVEMBER 5, 2009 FILING OBJECTING TO THE CORRECTION OF THE RECORD AT BAR AND ARGUING FOR AN ORDER UPHOLDING THE FIVE YEAR BAN ON APPLICANT (6) MS 11/18/09

1/13/10 ****CASE SENT TO RECORDS DEPT.****
****END OF REPORT****

Honorable Judge Kelly, May 2, 1992

Greetings from Sherman County jail; I am in my 17th day of incarceration per your order signed April 17, on Good Friday. I am safe and secure – I do believe you care about that.

I'm writing to share with you my concerns regarding our present disagreement. In hopes that you will care enough about justice to "read me out." I will be building a logical argument throughout this letter that ends with a positional statement that we can hopefully both agree to. (Please forgive any misspellings – your marshals are holding me in a facility without a library and I am having to write this "treatise" from memory, without the benefit of my notes.)

As a review, I was "dragged before you in chains" on March 20 on a show cause order that George Tiller's attorneys had thrown together after an incident on the public sidewalk outside his abortion clinic the previous day.

Judge Wooley offered me a "make it all go away" deal at 1:30 PM on March 20 if I would pledge, on oath, to obey all the laws of the land, including your 91-1303-K Federal Injunction. I explained to him that I could not do this, due to my faith in God as the final source of all authority. So off to you I went.

My hearing before you on March 20 looked to be a setup for a "trial by ambush"; I believe those involved in Wichita's lucrative abortion industry had

thought they finally had me right where they wanted me – before your imposing bench. Given the witnesses they had assembled, I believe that they were planning to "fire off" one inflammatory testimony after another, getting you enraged at me, and then, hopefully, watching me "go down" for a six month sentence under your injunction.

I moved for a continuance until the criminal charges could be tried in the municipality of Wichita, and you wisely granted it. Thank you!

One week later I met with you in chambers. I had, on March 20, promised you that I would obey all the laws of the land, including your (I believe unconstitutional) 91-1303-K court order. I had so promised for one week in order to study out where I stood with the laws of man, and the Law of God. As I searched out the scriptures, reflected upon my heritage and prayed in the Spirit, I felt convicted that I had "sinned" against God. I had promised to you something I had previously promised to another; unconditional obedience to my Lord and Savior Jesus the only Christ (anointed one; messiah). Therefore, I came to you on March 27 and told you that my one week "promise" was timed out, and could not be renewed. You threatened to put me in jail that very day, but relented upon our extended discussion.

In the course of said discussion you informed me that you believed my city charges that gave rise to the showcause order were politically motivated and basically unfounded.

We then parted, I thought not to meet under those circumstances most likely, again. My missionary work in the group Godarchy is first amendment protected activities. I then began earnestly working on my civil defense, enjoying the opportunity to learn more about the Law (I was accepted to Indiana University School of Law in 1990, seated in August. Unfortunately, I was sued, under Federal Injunctive law, by the nation's largest child killing "chain" – the Women's Health Organization – with the help of the US Government. The intense pressure sent my wife into a nervous breakdown; she bolted and ran out, leaving me. My house and job soon followed. Law school was out of the question with my spouse and finances gone. I firmly believe the unconstitutional and evil "law" of Bray vs. Alexandria is, for the most part, responsible for my wife's breakdown, her ensuing painful divorce of me, the loss of my job and property, and my missing of law school. Does this help you to understand how deeply my feelings run against 1871 KKK based Injunctions?)

After responding with answers, motion to strike and motion in liminie to the March 20 show cause order I went about my business of ministry. Wednesday, April 15 I was in my residence preparing to open a class that meets to study the history of western law and criminal/civil law issues. The phone rang; I was told by a friend that the Wichita Police Department was arresting an 83 year old woman at the clinic six blocks away. A friend immediately drove me to the site.

I approached Wichita attorney John Carmichael upon arriving "onsite," and asked him to please intercede on behalf of the woman; he refused. I explained to him that the woman had a heart condition and was on daily medication; Carmichael still refused.

I was very tempted to walk up to the squad car myself and explain the woman's condition to the arresting officer – however, the squad car was parked on clinic property, and to so approach would have been to violate both the 91-1303-K injunction and the trespass laws. Therefore I stood in public property (in the alley) and attempted to engage the police officers in discussion – they ignored me. The squad car pulled out of the clinic parking lot past me, window down. I asked Officer Keazer to stop and discuss my health concerns regarding the woman – he drove on. I was torn – should I just ignore this unfolding injustice that could easily result in a heart [attack] for an elderly woman, or should I do all I can to intercede, short of blocking the police car? My response was, due to my upbringing by a good, righteous and loving man (my father John Brown) automatic. Before I could even weigh out the "risks" I was running down the alley alongside the police car, attempting to warn the officer of what he did not want to hear. For my concerns I was arrested.

In our April 23 in chambers hearing you, like March 20, informed me that you believed my arrest was most probably unwarranted. I do appreciate your faith in me telling you the truth; I will not lie to you

your Honor. You are sitting in Moses' seat, and for that are to be respected and honored.

So I have now been forced to stand before you twice, neither incident being "cut and dried" violations of your injunction order. Had I been consulted ahead of time, I can assure you that I would have rather not been before your bench! As I understand my "calling" in Wichita, I am to teach, oversee the First Amendment protected sidewalk counseling efforts, and "buildup" the local church.

I have, however, through an unplanned sequence of events, found myself standing before your raw "civil" judicial power. To said power you now have required me to pledge unconditional obedience, obedience in heart and soul to the 1871 KKK statute application that drove the woman I loved into a destructive panic attack and cost me everything I owned. (A major catastrophe in my life that I lived through only by the grace of my Lord Jesus.)

Judge Kelly, I have been a church teacher, leader and Prolife activist since I gave my life to Jesus in November 1978. I am studied in political science; Hobbes, Rousseau, Marx, Locke and many others. I am degreed in sociology, self studied in philosophy and church educated in the sacred scriptures. In all of these I have become firmly convinced that the Creator exists and has revealed truth to mankind in propositional form. He is there and He is not silent. This belief is not an option in my life; it is my life.

Like the Founding Fathers of our nation, like the ancients of Israel, like my ancestor Thomas Brown who was killed in the American revolution, like his son Ignatius who organized and led troops in the war of 1812, like my grandfather Richard Brown (a humble but Godly man) and my hero/father John Brown I believe that God is the highest authority in Government. I believe that Jesus is Lord of Lords and King of Kings (and the Judge of Judges). In other words sir, I am Christian. With this profession of faith in Jesus comes a commitment to an "orthodox" political science. Said Christian political science is the belief in "Higher Laws."

To put it succinctly, Higher Laws is the belief that all authority is delegated by God, and is to be used to Glorify Him and promote the value of His eternal kingdom. You sir have been raised up to a seat of power by God so that you can rule, judge, justly. How do we know what just judging is? A very good question indeed!

If man's law is the end of the law, then nothing transcendent to judge man's law; no "yardstick" outside the decree of human government and power. Most all modern dictators (i.e., Hitler, Stalin, Mao) have governed in this fashion. Supreme Court Justice Oliver Wendell Holmes believed this – he is quoted as saying that "truth is that which is held by that nation which can lick all others." Evidently, if Adolf Hitler had won W.W.II. Justice Holmes would have donned black and red, marching obediently under the twisted cross. I would never!

I am assured that I would have never bowed to Hitler's evil statist power because of the fact that I, as my hero Dietrich [Bonhoeffer], believe that God's Law, as revealed in the sacred scriptures, is the "Yardstick" upon which to judge man's law. To Justice Holmes I must say; even if a nation exists that can rule over the entire Earth, crushing all dissents with the greatest of military power, if the law of said Empire is contrary to God's Law then said law is absolutely, metaphysically wrong. To said law I will not bow.

Of course, this view is not at all novel with me! In this Pentecost season I am held as your political prisoner of conscience standing on the shoulders of giants. This Higher Law concept moved the Hebrew midwives to disobey the orders of the Pharaoh of Egypt and save Moses the great redeemer from state mandated infanticide (Exodus 1). Said concept of Law compelled Rahab the Innkeeper to protect the lives of two "outlaw" Hebrew spies in the ancient city-state of [Jericho (Joshua 2)]. The kings of the East disobeyed the order of King Herod the childkiller, frustrating his plan to locate and murder the newborn messiah (Matt 2). My Lord Jesus repeatedly violated man made law in pursuing God's Law, teaching that any law which contradicts the [Divine] Law is, by definition, lawlessness (Matt 15, Matt. 23, Luke 6). The great apostles of faith, Peter and John were instructed by an angel to disobey the law of the Sanhedrin. These Godly men then courageously and boldly told their

government why they had no choice but to obey God and disobey human law (Acts 4 & 5).

Leaving the foundation of Holy Writ, we find myriad's of first century Christians living and dying to the Higher law's concept. These ancestors were told to either pledge unconditional obedience to the Roman government ("Caesar is Lord" was the official creed, pledged while standing before an official symbol of the pagan Roman government) or face a cruel death on the charge of treason. To the Glory of King Jesus (who was and is, Lord above Caesar) countless thousands went to their deaths singing hymns to the Almighty Ruler of the Cosmos! Twelve centuries later Magna Carte, that great work of freedom, came about because brave "commoners" had the courage to "inform" the King that God's Law was over his Law. LEX REX – NOT REX LEX!

Our own wonderful nation was founded by a group of "troublecausers" and lawless rebels" who dared to tell their King, George III, that his law was no longer binding upon them, for they were setting up a republic to follow first and foremost the Laws of God. Seventy years later abolitionists routinely defied Federal law – the fugitive slave act as well as the 1857 Dred Scott Supreme Court decision. (Which was legal, judicially valid – and absolutely wrong!) I am confident, given what I understand of your political philosophy, that you have great respect for the women and men who, on the concept of Higher Laws, ran the underground railroad.

Across the Atlantic and in this century, the German Resistance worked diligently and quite illegally behind Nazi lines in attempting to sabotage a murderous and absolutely evil regime. Our own nation supported this effort, a blatant "blessing" of the Higher Laws concept of political theory. In recent US. History many of us look back to a black pastor locked up in a Birmingham jail for a brilliant and spirited explanation of the Christian political science that built western civilization. Martin Luther King, Jr. understood well that man's law must be judged against God's law, and could never be allowed to "stand alone" among Christian civilizations.

Your Honor, your authority to rule and judge over me is delegated by God via the US. Supreme Court. Said "highest court" sits under the 10 commandments of YHWH (propositional Truth given at Mt. Sinai some 3500 years ago), carved in the stone dome above their heads. Said law is to bind the Federal Judiciary, reminding you all of the faith and purpose of our founding Fathers. As "lawbreaker" and President George Washington told us "Whereas it is the duty of all nations to acknowledge the providence of Almighty God, to obey His will, to be grateful for his benefits, and to humbly implore his protection and favor . . . " Judge Kelly, I cannot follow this fantastic advice from the Father of our nation if I pledge unconditional obedience to the laws of men. Even our pledge of allegiance to the flag contains the very important caveat "Under God." If said phrase is stricken, as some fringe elements desired, I will no

longer be able to take said pledge. Man's law is *not* the end of the law – it isn't even the beginning! As the great President Abraham Lincoln said in a time of great upheaval in America "It is the duty of nations, as well as men, to own their dependence upon the overruling power of God and to recognize the sublime truth announced in the Holy Scriptures and proven by all history, that only those nations are blessed whose God is the Lord." Lincoln believed in the final authority of God over human law, and so rejected the laws of slavery as being null and void.

Your honor, I am imprisoned this day as a Christian patriot. As I write this letter to you I cry on the inside for a nation cast adrift, for a great city on fire, for a lost generation. Respect for man's law in our nation – and law enforcers – is the lowest it has ever been in our national history. Injunction violating rescuers in Buffalo, mob looting in LA., corporate cheating on Wall street, gang war zones in DC., police protected baby killing to the day of delivery in Wichita. Man's law is failing the nation. Man's law is failing us precisely because it aspires to be respected as man's law alone. Man's law has rejected its very foundation, has rejected the transcendental nature of law. We "commoners" are not the mindless sheep the ruling elites seem to desire us to be. If the law is hanging on nothing, then the law becomes nothing. (If the great ruler of the Golden Rule is dismissed from law, then said rule becomes "He who has the gold rules" – and the goldless have no reason to be agreeable to the status quot.) As F.W. Nietzche

taught, only the sheer forceful power of the "uber-man" will be able to hold such a man-centered social order together. I pray with tears that this is not where my nation is headed, but I sincerely fear that we are indeed headed down the same path that our German cousins crawled a scant 60 years ago. May the Lord of history help us!

Your Honor, beyond fearing for my nation I fear for you. I understand that you were raised in a Christian home, and your name certainly bears witness to great men of God of the past; men firmly committed to the superiority of God's law over man's law. Yet you, your Honor, seem bent upon forcing all Christians to bow before "your" law, a Federal Injunction designed to protect an industry that profits greatly from the dismemberment of pre-born human beings created in the Image of the Living God. I simply cannot bow before such an evil edict your Honor. Four thousand years of godly ancestors and my son-slave relationship to the King of Kings compels me to stand for the Law of God; even if you hold me in this cell for the remainder of my days on this fallen orb.

Please do not take my "belligerence" personally your Honor – it's not directed against you. My pledge to King Jesus is to obey and bow before His law first and foremost even if instructed otherwise by a full council of Bishops, 10,000 angels or gun-toting terrorist. I have decided to follow Jesus; I will live for my King and by His Laws first and foremost, being a good citizen and obeying all the laws of man that do

not run afoul of the Law of God. This is Christian citizenship.

Judge Kelly, given the rapid decay of our culture, the apostasy of the Church, and the rising power of the neo-malthusian death cults it is entirely possible that you yourself, in the not-too-distant future, maybe put under a judicial or legislative order of termination for the crime of being "aged and unwanted." I pledge to you, before Jesus my King, that you can come to me for help on that day. I'll hide you, rescue you (or your wife or children), no matter what merely human law I must break (or judicial decree) to intercede. Such is the call of the Christian, such is the Gospel in action.

Honorable Judge, I realize this most probably is not the letter you wanted from me at this time! I really am sorry to be a "problem." However, just as I and others have serious philosophical troubles "swearing in" to the god of the Federal judiciary, I have major philosophical barriers keeping me from promising unconditional obedience to the law of man, especially given the current anti-god bent of law in our nation. I can (and will) acknowledge the law. I can sign a penalty agreement to be enforced if I break said law. I can promise to obey all of man's laws that are in compliance with God's law. I just cannot sign the "promise" statement as it currently exists, no matter the price for refusal. To do so would be to deny the One who gave His Holy Life to purchase mine from the dominion of the evil one. To do so would be to commit treason against the Kingdom of God.

In closing Your Honor, I am praying for you. I do not hate or despise you – in fact I have enjoyed our in chambers discussions. I do tremble for you Judge Kelly. When I reflect upon the fact that you may very soon, statistically speaking, be standing trial before the Judge of Judges I tremble for you. On that day the children that George Tiller and the other Federally protected abortionists of Wichita have sliced and diced, burned and flushed will bring charges of "treason against humanity and God" to the Great Docket. I sincerely pray that before that awesome day dawns you fall to your knees before the Great King, pledging your unconditional obedience, no matter the cost, to the Rule of Jesus. He is the final and ultimate authority.

In The Love Of God,

Bryan J. Brown

P.S. None of this is meant to be construed in any way as a threat. I would never advocate violence against a Federal Judge. God rules over the affairs of all men – especially those in government. To him alone is to be the power of life . . . and death.

STATE OF INDIANA [SEAL]

Linda L. Loepker
Executive Director

Indiana Supreme Court
State Board of Law Examiners
30 South Meridian Street, Suite 875
Indianapolis, IN 46204-3569
Phone (317) 232-2552
Fax (317) 233-3960
www.in.gov/judiciary/ble

Certified Mail, Return Receipt Requested
And Regular U.S. Mail

February 11, 2009

Bryan John Brown
827 Webster Street
Ft. Wayne, IN 46802

Re: Your Bar Application

Dear Mr. Brown:

Admission and Discipline Rule 12 requires the State Board of Law Examiners to certify to the Indiana Supreme Court that applicants for admission to the bar have the requisite good moral character and fitness to practice law. As you are aware, a review of your application raised some concerns about your ability to meet the requirements of Rule 12. After meeting with the Board on January 25, 2008, the Board required you to provided [sic] additional information. The Board has received the additional information. On Friday, February 6, 2009, the Board met to consider your character and fitness.

After careful and deliberate consideration the Board determined that you had not met your burden as specified in Admission and Discipline Rule 12 and denied your application. Additionally, the Board voted that you not be permitted to reapply for a period of no less than 5 years. Accordingly, the February 2014 bar examination is the earliest that the Board will consider an application from you.

You will not be permitted to take the February 2009 bar examination and your application has been dismissed. In approximately 6-8 weeks, via separate transmittal, you will be receiving a refund of one half of your application fee.

Sincerely,

/s/ Linda L. Loepker
Linda L. Loepker

Diplomate, American Board
of Professional Psychology

Clinical & Forensic Psychological Services
Stephen Ross, PsyD, ABPP
4630-5 W. Jefferson Blvd.
Fort Wayne, Indiana 46804
260 • 436 • 4100
260 • 432 • 6282 (Facsimile)

April 23, 2008

Timothy J. Sudrovech, MA, LCSW, Clinical Director
Judges and Lawyers Assistance Program
320 North Meridian St., Suite 516
Indianapolis, IN 46204

CONCERNING: **BRYAN JOHN BROWN**

Dear Mr. Sudrovech,

As you may know, I had the opportunity to conduct a psychological evaluation of Bryan John Brown who is an attorney applicant for the Indiana Supreme Court State Board of Law Examiners. In a letter of February 1, 2008, Mr. Brown was advised that he must undergo a full psychological evaluation to address issues concerning his ability to meet the requirements of Rule 12. More specifically, an asssessment was requested to assess his character and fitness to practice law in the State of Indiana. These concerns have been based upon previous issues with Mr. Brown in another jurisdiction where he has practiced law.

Prior to the commencement of the evaluation process, Mr. Brown was fully apprised of the purposes and

parameters of my inquiry. Any questions he had concerning confidentiality and informed consent were answered to his satisfaction. He reviewed my outpatient services contract in which he consented to my administration of psychological testing and conducting an evaluation of him. Furthermore, he provided me with written authorization to convey the results of my examination to you.

Please treat this document as a confidential work product with very sensitive information.

As part of my evaluation process, I reviewed the following sources of data which serve as the bases for the opinions offer to you:

1. A letter from the Indiana Supreme Court State Board of Law Examiners to Mr. Brown dated February 1, 2008.

* * *

Mr. Brown presents himself in a manner that indicates immediate familiarity with the others. Furthermore, his emotional expressiveness and mood variability suggests to me the *possibility* of a subclinical bipolar disorder of a hypomanic type. It is important for me to note, however, that I am not making these statements purely based upon the fervor of Mr. Brown's religious beliefs and convictions. The fact that he has participated in protests against abortion clinics does not make him a person with a bipolar illness. The fervor, however, in which he represents himself vis-à-vis others and the

intensity of his interpersonal style suggest a subclinical level of a bipolar disorder which would warrant further consideration by a psychiatrist.

With the aforementioned in mind, I would recommend that Mr. Brown meet with a board certified psychiatrist who may or may not consider pharmacological intervention. I would recommend Jay Fawver, MD, a local psychiatrist with whom I have worked with in the past and about whom I have the highest respect for and of his clinical skills.

Medication, if indicated, should be considered in conjunction with individual therapy to assist him in understanding his interpersonal presentation. He should be receptive to such feedback and wiling [sic] to make changes as directed by his therapist.

His financial resources are reportedly limited at this point. He can contact me in the event he would request a referral to a local mental health practioner.

I do not believe that the aforementioned problems should preclude Mr. Brown from taking the bar exam. He has a unique style of interpersonal interaction which does not necessarily rise to the level of not allowing him to take the bar. He appears to have moral integrity but an idiosyncratic style which may be indicative of a subclinical bipolar illness. Further inquiry is warranted. Should he pass the exam and be admitted to the bar, I would recommend that he be appointed a local mentor associated with JLAP.

Should you or Mr. Brown notice any errors in this report, please contact me. I am open to a revised version of this report. If either you or Mr. Brown have any specific questions, please do not hesitate to contact me. As always, I appreciate having the opportunity to be of assistance to JLAP.

Sincerely,

/s/

Stephen Ross, PsyD, HSPP
Board Certified Clinical
Psychologist
American Board of
Professional Psychology

Bryan J. Brown
827 Webster Street
Fort Wayne, IN 46802
brown1634@gmail.com
(260) 515-8511

June 24, 2008

Indiana Supreme Court
State Board of Law Examiners
30 South Meridian Street, Suite 875
Indianapolis, IN 46204-3569

Re: Pending application of Bryan J. Brown

Honorable Indiana Board of Law Examiners and Executive Director Linda Loepker,

This letter acknowledges that I have been denied the ability to sit for the July exam based upon the inability of JLAP to author an evaluation of me. I must ask once again for that decision to be reconsidered in light of that which I present herein.

I was interviewed and subjected to three psychological examinations by a JLAP representative, the psychologist Dr. Stephen Ross. It is my understanding that I "passed" all three of those exams, and Dr. Ross furthermore concluded that I should be approved to sit for the Indiana bar exam.

This conclusion did not cause JLAP to schedule me for an interview in their offices or to make a recommendation. JLAP has instead now mandated that I see a psychiatrist to discuss issues of "self-sabotage." I

note that such is quite close to self-denial, self-immolation and self-sacrifice, all concepts at the heart of my religious heritage – as even those outside the fold can attest.[a]

This order from JLAP continues the process begun the first day of my testing at the hands of the JLAP-appointed psychologist – and that process is an inordinate focusing upon my religious views and the fashion in which I have and do express the same. By way of example, it appears that I have been denied a recommendation from JLAP based upon my performance on the religiously-biased "Minnesota Multiphasic Personality Inventory 2."

I am writing JLAP under separate cover to raise an objection to the process that has been employed to date and to discuss my concerns regarding the safeguarding of my constitutional rights. Suffice it to say at this time that I believe my rights (of free exercise and to be free of religious testing) under the Indiana and federal constitution are (possibly) being violated at this time. I invite the Board to investigate that possibility. (I trust that the Board has a special

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[a] "Look at Christ, my dear friend: His life was divine through and through, full of self-denial, and He did everything for mankind, finding His satisfaction and His delight in the dissolution of His material being." Mikhail Bakunin, Russian anarchist, revolutionary, avowed atheist.

concern as to the civil rights concerns of bar applicants.)[b]

Once again, I will brief the Board in more detail on this matter in a subsequent letter. If the Board does have an Office of Civil Rights, I would merely ask that an investigation into the handling of my file be started at this time, while I continue my attempts to document in full the discrimination that I have been subjected through the JLAP referral process. My current efforts to document this discrimination have me focused upon my file with the JLAP referral, Dr. Stephen Ross. I will soon file documents with JLAP raising the same concerns.

I will now leave that discussion for a subsequent report. The balance of this letter responds to the three questions I was asked on January 25:

1. Why I had not paid the attorneys fees judgment ordered on February 20, 1991, and, if not prepared to do that, why I had not filed a Rule 60 in federal court;

2. Why my record of criminal arrests should not give the Board reason to deny me entrance, and;

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[b] I do not seek special treatment from the Board at this time, I seek only that level of attention that would be given to one claiming discrimination based upon racial, ethnic or religious (minority) characteristics. Or, in the alternative, the attention that would be visited upon one claiming discrimination due to affiliation with a communist party or atheist association, as was allegedly common 50 years ago.

3. Whether I believe that I violated canons of ethics as to the disciplinary complaint filed against me in Kansas.

A brief history of the background facts is as follows:

Starting with two above, I was arrested a dozen times between 1988-1992, all of them for some form of social/political dissent. Most of the arrests were incident to loitering ordinances. The Kansas Court mothballed one of the ordinances under which as many of five of these arrests were made in response to pre-law school appeal of the same.

The only arrest to end in an adjudication of guilt by a jury of my peers resulted in a misdemeanor on my record. I was fined $50 and court costs for interrupting the Wichita police as they roughly arrested an 83 year old great grandmother with a heart condition who had been protesting abortion on private property. My attempts to warn the police of their confusion as to her right to access the property at issue and their potential liability under federal law moved the police to place me under arrest with the elderly protestor. I have written of this arrest at length and will tender all such writings upon request

I won many of the balance of my political protest cases by raising constitutional arguments. Others were settled against nolo pleas.

None involved any acts of "crimi falsi" or deception. All were forms of social protest.

Point one above was the result of my leadership in a social protest movement that sought to protect nascent human life. I will spare the reader a defense of my motives. They are defended at length at many and various cites on the web and in religious documents such as the Catechism of the Catholic Church.

I was sued, like more than a few others across the country, for my leadership role in the "rescue" movement. Using a federal statute passed in 1871 to stop the KKK from intimidating black voters and much creativity the abortion industry sued pro-lifers in federal court, arguing that just as an injunction could have issued in 1871 to keep the polling entrances cleared of men in white sheets, an injunction should issue in 1990 to keep abortion clinic cleared of Operation Rescue.

More than a few federal judges honored this creative lawyering with injunctive relief. The pro-abortion lobby then filed for fee shifting under the federal civil rights statute codified as 42 USC 1988. The default in most cases in America's courts is that each side pays their own attorneys. In Fort Wayne we not only paid our own, but were then ordered to pay monies directly to the abortion clinic and the abortionist, George Klopfer, so that the same could pay their attorneys.

This I could not do, for to pay monies directly to that industry or an abortionist would be to violate my conscience.

The third question follows upon the heels of a "rescue" that I improvidently attempted around October 8, 2007. Seven months earlier I had been "let go" as a Deputy Attorney General in Kansas. This came after a bitter election season in which my pro-life past had been distorted and displayed on every television station in Kansas for weeks. It was political saturation bombing, one of the best examples of the politics of personal destruction that I have even witnessed – first hand or otherwise.

My career in civil service was ruined through the campaign, and most told me that I was unemployable in Kansas. The months that followed were very difficult for me, in part because the incoming team terminated many of my co-workers, more than a few of whom has worked under me in the chain of command. Many of them, like me, found finding gainful employment difficult to nearly impossible.

Having failed in my bid to save receptionist Connie Ullman from a cruel fate (details available upon request), I overreacted when investigator and law enforcement officer Jared Reed sought my intercession. (More details to follow).

A Caveat: I am admittedly and boldly politically incorrect

Before I take on the tasks at hand, allow me to admit that I am a religious and political dissident, and as such strike some as quite an oddity. Dr. Ross tells me as much, as have others.

A dissident, broadly defined, is a person who actively challenges an established doctrine, policy, or institution. http://en.wikipedia.org/wiki/Dissident.

My religious and political dissent have primarily shown themselves in my pro-life and First Amendment work, which has included marching in Bloomington, Indiana (in response to court rulings that affected infanticide) back in the early 80's, organizing community activism against the abortion industry for decades, leading sit-ins, boycotts and rallies, engaging in minority political campaigns, suing many government agents, agencies and municipalities on behalf of myself and other dissenters, reorganizing a government bureaucracy in a fashion that caused the dominant political culture great shock, publishing controversial newsletters, magazines and now webpages.

My political and religious dissent has drawn me into confrontations and/or conflicts with elected government officials, appointed government officials, party bosses, police officers, federal judges, state court judges and many others. I am an outspoken advocate for justice.

This lifelong status as a religious and political dissident should inform the Board as to the context for my past while not prejudicing the Board against me due to my politically incorrect views. I realize that this is a tall order, but also realize that this Honorable Board understands that one of the brightest gems of the American system of due process is that even communists and Christian activists are to be treated fairly and, as much as possible, in a fashion that does not violate their consciences.

That set forth as prologue, the following are answers and updates on all three areas of inquiry:

1. The reopening of the civil judgment in *WHO v. Brane*, F90-66

After much thought and discussion, my wife (Anne) and I have decided that it is not right for us to reopen the case of *WHO v. Brane* by me filing a Rule 60 motion in federal court. This is due to the potential harm such a filing could visit upon multiple families. Neither can we in good faith pay monies directly to the abortion industry for attorneys fees raised via public interest appeals[c] against the backdrop of what we believe to be an unconstitutional order.

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[c] The attorneys flown in from New York for the injunction hearing were associated with both the NOW defense fund and the ACLU, as well as other nonprofit, public interest funding devices. I witnessed at least one direct mailing using the lawsuit

(Continued on following page)

We have come to this decision separately but for similar reason. I will lead with my legal reasoning and finish with the more personal reasons that moved Anne to ask me to not re-open the case.

* * *

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in Fort Wayne to raise funds, and such appeals can yet be found on the web.

Bryan J. Brown
827 Webster Street
Fort Wayne, IN 46802

Via certified mail, delivery confirmation requested

George Klopfer

FRIENDSHIP FAMILY PLANNING CLINIC

BROADWAY
GARY, IN 46408

Re: Notice from Defendant
WHO v. Brane, Brown (F-90-00066)

This letter constitutes notice that I have returned to Indiana and am officing at 827 Webster Street.

It is and has long been this Defendant's contention that the injunction and order to pay attorneys fees issued in case number F-90-00066 on February 20, 1991 was rendered null and void by the Supreme Court's ruling in *Bray v. Alexandria*, 506 U.S. 263 (1993).

Should you determine it best to litigate this issue, I have drafted a Rule 60 motion which would place the question of the currently [sic] legitimacy of the judgment for attorneys fees pursuant to 42 USC 1988 squarely before the Court.

None of the above is legal advice, it is merely this Defendant's opinion. You should consider obtaining legal counsel if you have any questions regarding this letter.

This letter merely serves as notification of my present address and my willingness to join these issues at your convenience.

Sincerely,

Bryan J. Brown
Kansas licensed attorney (#17634)

U.S. Postal Service

Track & Confirm

Search Results

Label/Receipt Number: **0307 1790 0005 6187 0961**
Detailed Results:

- **Delivered, June 06, 2008, 12:53 pm, GARY, IN 46408**
- **Arrival at Unit, June 06, 2008, 6:59 am, GARY, IN 46409**
- **Acceptance, June 04, 2008, 5:13 pm, FORT WAYNE, IN 46802**

[LOGO]
Fawver Wellness
CLINIC

6920 POINTE INVERNESS WAY, SUITE 250,
FORT WAYNE, IN 46804
PH# 260-436-4060 FAX# 260-436-5713
Web address: www.fawverwellness.com

10/2/08

TERI Harrell
JLAP

RE: BRYAN J BROWN
D.O.B.: [Date Of Birth Omitted]

To Whom It May Concern:

Mr. Brown was scheduled for a psychiatric evaluation for the Bar Association at our office today. Unfortunately, prior to this morning, we were not aware that this type of evaluation was needed, as we do not provide this type of service. As soon as we realized the appointment was scheduled in error, we contacted Mr. Brown this morning and informed him that we need to cancel his appointment today. Mr. Brown expressed a willingness to have the evaluation, and we would suggest that he contact the office of Bryan Flueckinger, MD or Herbert Trier, MD.

/s/ J Fawver MD
JAY FAWVER MD

St. Joseph Medical Group

Psychiatric Care

415 E. Cook Road, Suite 100 • Fort Wayne, IN 46825 • Phone 260.489-6030 • Fax 260.489.5536

Lutheran Health Network Member

May 1, 2009

Re: Bryan J. Brown
DOB: 1-25-1959

To Whom It May Concern:

Mr. Bryan J. Brown has asked me to provide a summary of my psychiatric evaluation of him relative to his upcoming judgment by the Judges and Lawyers' Assistance Program. He has provided me with the criteria against which he will be reviewed.

My sessions with Mr. Brown occurred on 9-16-08 and 10-13-08 at his request. I have also reviewed additional psychological testing results which he provided to me.

Regarding "good moral character," it is my opinion that Mr. Brown **DOES MEET** this standard without question. He appears to hold to his personal and spiritual convictions without wavering. He expresses a clear respect for the law and the judicial process. However, his actions have apparently brought him into conflict with some legal entities in the past, but I believe it was not his primary intent to break the law.

Regarding "fitness," it is my opinion that Mr. Brown **DOES MEET** this standard. I am not qualified to comment on his interactions with the legal process or his fiduciary responsibilities. However, based on my evaluations, Mr. Brown possesses the mental stability required by your guidelines. I found him to have very strong opinions, which he based on extensive evidence gathered from multiple sources. He is passionate about his faith, family and work. He is highly energetic and very focused on his goals, and these characteristics appear to be very consistent. He approaches his goals in a logical fashion and does not appear to be impulsive, delusional, or grandiose.

I hope you find this information is helpful to you in considering Mr. Bryan J. Brown for admission to the Indiana Bar.

Sincerely,

/s/ Bryan E. Flueckiger, MD
Bryan E. Flueckiger, MD

ELIZABETH S. BOWMAN, M.D.
10585 N. Meridian St., Suite 340
Indianapolis, IN 46290
Telephone: (317) 580-4011
Fax: (317) 580-4010

December 24, 2008

Mr. Timothy Sudrovic
Judges and Lawyers Assistance Program
320 N. Meridian St., Suite 516
Indianapolis, IN 46204

Re: Psychiatric Evaluation of Mr. Bryan J. Brown

Dear Mr. Sudrovic:

Thank you for referring Mr. John Brown, a 49 year-old applicant for the Indiana Supreme Court State Board of Law Examiners (IBLE), to me for psychiatric evaluation. I conducted a psychiatric evaluation of Mr. Brown between October 24, 2008 and November 24, 2008, and ordered psychological testing conducted by William Alexy, Ph.D. of Indianapolis. Herein I report the results of my evaluation.

Reasons of referral:

You indicated you were requesting this evaluation after Mr. Brown was referred to JLAP by the Indiana Board of Law Examiners because:

1. He disclosed approximately twelve arrests on his application to be admitted to the Indiana State Board of Law Examiners examination.

2. A previous evaluator, psychologist Stephen Ross, Psy.D., recommended Mr. Brown be evaluated by a psychiastrist for bipolar disorder or possible medication use.

3. Mr. Brown was the subject of an ethics inquiry in Kansas after he wrote a letter about a personal matter on the stationery of the former Kansas Attorney General, by whom he had not been employed for nine months.

4. Mr. Brown's application process with IBLE was lengthy (ten months at the time of your referral to me), and included his prolific written productions to JLAP and to Dr. Ross. You reported concern because Mr. Brown had extended the evaluation process with objections to the findings of a previous evaluator, and because Mr. Brown reportedly had questioned the professionalism of Dr. Ross, the IBLE, and JLAP and had sent an unusually large amount of self-authored material to you and the IBLE.

Dates of evaluation:

October 24, 2008, November 7, 2008, and November 24, 2008.

Information Sources for this Report:

1. This evaluator's telephone discussion of this referral from JLAP with Mr. Timothy Sudrovic on October 16, 2008.

2. A copy of Mr. Brown's application to the Indiana Supreme Court State Board of Law Examiners.

3. I conducted three hours 55 minutes of in-personal clinical interviewing of Mr. Brown, on the above three dates and spoke with him by phone on October 7, 2008 to arrange appointments.

This Evaluator's Conclusions

1. Mr. Brown is not psychotic, but has rigid thinking that limits his insight into himself and his behavior.

2. Mr. Brown does not have bipolar disorder. At his age, he is unlikely to develop it.

3. Mr. Brown is not currently depressed, but has had two clinical depressions when stressed.

4. Mr. Brown has considerable understandable ongoing anxiety about admission to the bar exam. He is handling his anxiety with obsessionally detailed speech and expectations of being misunderstood and attacked for his religious beliefs. This pattern of coping has slowed his application for the bar and hampers his interpersonal effectiveness. He is quite uncomfortable in interpersonal interactions.

5. Mr. Brown has moral integrity. His moral integrity has been expressed in a manner that has led to principled civil disobedience based on his religious beliefs.

6. Mr. Brown has considerable conflict with authority that led to arrests for abortion clinic activities

until 1991. He has given up activities that led to previous arrests. If admitted to the Indiana bar, he likely would continue his anti-abortion activities via lawful means rather than means leading to arrests.

7. Mr. Brown's past arrests are related to his religious beliefs and are not an indication of an antisocial personality, but of difficulty in modulating his obsessional behaviors, difficulty containing his emotions and speech, and difficulty with insight into how his behaviors may appear to others. His lack of insight into his rationalized behaviors (e.g., his ethics inquiry, and his last arrest) places him at risk for future unintentional ethical difficulties.

8. Mr. Brown's 2007 legal ethics investigation was due to his lack of awareness of how his behaviors might appear to others. He is vulnerable to this lack of insight when dealing with matters (such as anti-abortion activities) that raise intense emotions.

9. I find Mr. Brown's intense and obsessional interpersonal style impairs his functioning and the effectiveness of his interpersonal relations, but does not preclude him functioning morally.

10. I find Mr. Brown's character confers elevated potential for another clinical depression if he has further serious life losses or reversals.

11. I agree with Dr. Ross and Dr. Alexy that without an objective consultant, Mr. Brown is at risk for unintentional ethical difficulties from loss of perspective

on his actions when he is engaged in work about which he has passionate emotions.

12. I agree with Dr. Ross and Dr. Alexy that Mr. Brown's success would be enhanced by individual psychotherapy to help him better understand how he relates interpersonally and to help him learn to contain his over-elaborated verbal responses.

Overall my findings are consistent with those of Drs. Ross and Alexy. The independently drawn conclusions from their psychological testing are consistent with each other and with my conclusions about Mr. Brown. With them, I find him not psychotic, not depressed at this time, not having bipolar disorder, and to have moral integrity. I find him to have a personality disorder with prominent narcissistic and obsessive traits that has impelled him to sometimes impulsive activities driven by his religiously informed conscience. I find his personality disorder has caused him to lose perspective on the ethics of his behaviors and to be arrested for civil disobedience. He remains at risk for losing perspective on his behaviors. Mr. Brown is an intense man who sees himself as a misunderstood and persecuted crusader for the helpless. He largely remains unaware of his own contributions to his problems, but appears to have learned from some of them and has avoided arrest for the past 17 years.

Applicant 24128's statement regarding the Christmas Eve Report of Dr. Elizabeth Bowman

SECTION 1: Beginning with the end in mind

Here is my response to each of Dr. Bowman's twelve conclusory statements from page 9 or her report:

1. Admit. My rigid thinking is the result of my upbringing in the Christian faith, strong beliefs about the applicability of the Magisterium's teaching to all areas of life, and biological material from my father's ancestors.

2. Admit. Dr. Ross was wrong in positing that I did have such a disorder. See Bowman, p.6, L.6 noting that such a diagnosis was "superficial" on Dr. Ross' part.

3. Admit that I am not currently depressed. Deny that I ever was "clinically depressed." Admit to two previous bouts of depression of the kind that causes withdraw from friends and family.

4. Admit in part, deny in part. I certainly was uncomfortable with Dr. Bowman given her transparent dislike for me and my worldview. I had no such problem with Father Seculoff, Dr. Tom Sass or Dr. Bryan Flueckiger. I was comfortable with Dr. Alexy, but less comfortable with Dr. Ross. I am, like many of my ilk (Christian traditionalist) uncomfortable with psychiatry in general.

5. Admit that I have moral integrity based upon my religious beliefs.

6. Admit. I have no plan nor desire to again be arrested for protesting elective abortion. That

societal ship has now sailed. *Roe* is and will remain the law of the land for decades.

7. Admit in part, deny in part. All of us are "at risk for future unintentional ethical difficulties." Admit that any such future difficulties will be, most likely, unintentional, for after what I have been through with Kansas and Indiana the past two years I would rather never have to interface with such agencies again in the future.

8. Admit. Would also say the same of Dr. Bowman, who seemingly battled intense emotions in processing my case and likely does not realize how her report reads to the average layman.

9. Admit. I will stipulate to being a "weird duck." Were that a bar to licensure the attorney rolls would be sparse. While my personality and perspectives are likely to keep me out of the Evangelical and Ecumenical Women's Caucus, and perhaps even Indianapolis' more exclusive country clubs, I submit that they should not bar me from the Indiana bar.

10. Admit. But for the Grace of God I would have already so succumbed.

11. Admit in part. I have such an objective consultant in my wife, my father and my friends. As I have written in response to the Jared Reed letter, I was withdrawn during the time that I improvidently used my own former letterhead in a followup letter (previous letter having been written on the same letterhead) and was in fact lashing out at those who had seemingly

abandoned me. See my letters to Kansas and Dr. Ross for more of this analysis.

12. Admit in part. I have been seeing Father Seculoff and Dr. Sass. My time with Dr. Flueckiger was helpful. I have also read through the reports of Drs. Ross, Alexy and Bowman repeatedly, seeking application. I have recently completed a management course the Franklin Covey Institute that also helped me self-reflect and hopefully strengthen my "best angels" while turning from those less than best.

It is rather amazing that Dr. Elizabeth Bowman and I could find as much common ground as we did up above. It is the applicant's assertion that Dr. Elizabeth Bowman could not, to put it mildly, be accused of going easy on the applicant or being in agreement with the applicant on almost any of the issues animating the applicant's file. Applicant is a male traditionalist who has been socially active for pro life and constitutional causes advancing limited governance. Applicant upholds and advanced the teaching authority of the Roman Catholic Church in all areas it addresses, and also advanced the Natural Law as the cure for modernity's many ills.

Dr. Bowman cannot be accused of any of these "thoughtcrimes."

SECTION: 2 The good doctor is from Venus, the Applicant from Mars.

Dr. Bowman's report demonstrates no small amount of animosity toward applicant. Applicant has placed no small amount of evidence in the file suggesting that he and Dr. Bowman are worlds apart as to world view. In laymen's terms, Dr. Bowman did not like me and does not like the way I think. My personality, she found, is my "greatest difficulty" and (p6,l.50) and just having to talk with me, even at the rate of about $85 per hour, was "exhausting." (p.8,l.28). Much of this was evidently due to my lack of empathy for her, who was evidently hurt by my answers to her interrogations. See P7, L.27.

This applicant for the Indiana bar thinks if fair to say that if any psychiatrist was going to find the applicant mentally unstable it would be Dr. Elizabeth Bowman.

It is crucial to note that Dr. Bowman did not use any of the testing of Dr. Steven Ross in my "primary diagnosis." This is because that testing did nothing to support her ultimate conclusion as to the label to pin on me. It is also crucial to note that Dr. Bowman did not cite to the report of Dr. Bill Alexy in labeling me. That is because Dr. Alexy's testing did little to support her ultimate conclusion as to the label to pin on me.

Dr. Bowman used her own notes, taken while interrogating me for hours on end, to label me with the

ominous sounding "primary diagnosis" of "Personality Disorder NOS"

* * *

May 04, 2009

To whom it may concern Re: BRYAN JOHN BROWN (This is a letter of support for the above mentioned individual.)

Bryan J. Brown has been an acquaintance of mine for about the last two years. He has interacted with me (and my wife Sharon) socially in more formal situations such as meetings and activities at the Archangel Institute, and also in less formal settings such as general public situations and circumstances. I have also had the privilege of speaking with him in more formal circumstances such as professional counseling situations.

I have gotten to know him quite personally as I have interacted with him extensively regarding his personal life and work situations. In all these situations I have found him to be person of high integrity and honesty, extremely upright and moral, emotionally and psychologically stable, and truly a man of his word. Unlike many others I have known personally, he genuinely seems to apply those standards also to all his other life experiences and dealings. He is a man of extremely high intellectual ability and appears to strive to use his healthy reasoning consistently in all the aspects of his business and personal experiences. I (and my wife) would value his input and advice in any of our own decisions and family situations. I would also, after personally interacting with and knowing many other area legal representatives, rate him among the most effective and reliable I have had the benefit of knowing in this area.

While the above are all true, he also appears to be a deeply compassionate, even sensitive and caring individual. He seems to especially make a concerted effort to use the above characteristics in his relationship to his family. While maintaining firm guidelines and standards in his own relationship to himself and his family equally, he seems to make a special effort to assist them in being healthy independent confident individuals. His open warmth, affection and acceptance to them are obviously more that just a mere front or facade. He has balanced extremely well the need to provide physically for his family while also being very attentive to their social, emotional and psychological needs.

These are all the exact same qualities that have made Mr. Brown such a competent and caring individual in the pursuit of all his activities in business and the community. It would be truly refreshing to see such an individual be given the opportunity to serve the citizens of this community as a legal representative.

Sincerely,

Rev. Dr. Thomas L. Sass
Christian Counseling Services
Fort Wayne, Indiana

ARCHDIOCESE OF DENVER
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May 8, 2009

Indiana State Board of Law Examiners
30 South Meridian Street, Suite 875
Indianapolis, IN 46204

Board of Examiners,

My name is Bishop James Conley, the Auxiliary Bishop of Denver, Colorado. I am writing this letter for Mr. Bryan J. Brown. I have known Mr. Brown since 1991 when I served as Pastor and Chaplain of St. Paul's Catholic Church/Newman Center at Wichita State University in Kansas and he was a parishioner. I mentored him in his faith journey and eventually received him into the Roman Catholic Church. I also officiated at his marriage to Anne (Walker) in the mid-90s and have been close to his family during the intervening years. I also know Bryan's parents and Anne's parents and extended family and can attest to the stability and loving environment from which they were both raised.

Mr. Brown's steadfast opposition to the injustice of abortion led to multiple arrests when he chose to publicly protest this activity in a peaceful and nonviolent exercise of the First Amendment between 1989 and 1992. Mr. Brown's unwillingness to concede his strongly held convictions and compromise his

conscience even at great personal cost speaks to a strong inner character and a special quality that is often lacking today.

Bryan is honorable, trustworthy, and works with diligence and dedication at whatever endeavor he undertakes. He has high ideals, takes responsibility for his actions, and has attained a mature balance both spiritually and emotionally.

Personally, Bryan is a man of integrity, honesty, enthusiasm, and intelligence. He is a devoted and loving husband and father. He possesses outstanding leadership qualities and excellent communication skills. He is an informed and practicing Catholic and is obedient to Church authority.

I commend Bryan as an Indiana attorney. If there is anything else I can offer on his behalf, please feel free to contact me.

Sincerely,

/s/ James D. Conley

Most Reverend
James D. Conley, S.T.L.
Auxiliary Bishop of Denver

The Supreme Court of Kansas
[Seal]
Certificate of Good Standing

I, **Carol G. Green**, Clerk of the Supreme Court of the State of Kansas, do hereby certify that the Supreme Court of Kansas is the highest court of law, and the court of last resort within the State of Kansas, and has exclusive jurisdiction over and control of the admission of applicants to the bar of this state.

I do further certify that on September 27, 1996 ,

BRYAN JOHN BROWN

was duly admitted to practice as an attorney and counselor of the Supreme Court and all other courts of the State of Kansas and is, on the date indicated below, a member in good standing of the Kansas Bar.

ACTIVE STATUS

Witness my hand and the seal of the Supreme Court, hereto affixed at my office in Topeka, Kansas, this 5th day of May, 2009.

/s/ Carol G. Green
Clerk of the Supreme Court of Kansas

INDIANA RULES OF COURT

RULES FOR ADMISSION TO THE BAR AND THE DISCIPLINE OF ATTORNEYS

RULE 12, SECTION 2

Section 2. The applicant must be at least 21 years of age and possess good moral character and fitness to practice law. The applicant shall have the burden of proving that he or she possesses the requisite good moral character and fitness to practice law. The applicant has the absolute duty to inform the Board with full candor of any facts which bear, even remotely, upon the question of the applicant's character and fitness and general qualifications to practice law, which obligation continues from the date of application to the time of admission, and includes the obligation to promptly and to fully inform the Board of any such facts occurring or discovered prior to admission. The term "good moral character" includes, but is not limited to, the qualities of honesty, fairness, candor, trustworthiness, observance of fiduciary responsibility, and of the laws of this State and of the United States, and a respect for the rights of other persons and things, and the judicial process. Anyone who has been convicted of a felony prima facie shall be deemed lacking the requisite of good moral character as defined in this section. The term "fitness" includes, but is not limited to, the physical and mental suitability of the applicant to practice law in Indiana. In satisfying the requirements of good moral character and fitness, applicants should be persons whose record of conduct justifies the trust of clients,

adversaries, courts and others with respect to the professional duties owed to them, and whose record demonstrates the qualities of honesty, trustworthiness, diligence, or reliability. In the determination of good moral character and fitness, relevant considerations may include, but are not limited to the following: unlawful conduct; academic misconduct; making of false statements, including omissions; misconduct in employment; acts involving dishonesty, fraud, deceit or misrepresentation; abuse of legal process; neglect of financial responsibilities; violation of an order of a court; evidence of mental or emotional instability; evidence of drug or alcohol dependency; denial of admission to the bar in another jurisdiction on character and fitness grounds; and disciplinary action by a lawyer disciplinary agency or other professional disciplinary agency of any jurisdiction.

General qualifications are those requirements to be admitted to the practice of law established by these rules, other than those dealing with examinations and character and fitness.

* * *